



TOWN OF EXETER, NEW HAMPSHIRE

10 FRONT STREET • EXETER, NH • 03833-3792 • (603) 778-0591 • FAX 772-4709

www.exeternh.gov

LEGAL NOTICE EXETER ZONING BOARD OF ADJUSTMENT AGENDA

The Exeter Zoning Board of Adjustment will meet on Tuesday, October 18, 2022 at 7:00 P.M. in the Nowak Room located in the Exeter Town Offices, 10 Front Street, Exeter, to consider the following:

NEW BUSINESS:

The application of RiverWoods Company of Exeter for a variance from Article 4, Section 4.3 to permit the elimination of 60 skilled care beds and to add 35 independent living units where such units would exceed the allowed density of three (3) dwelling units per acre; and a variance from Article 2, Section 2.2.26, Definition of “Elderly Congregate Health Care” to permit skilled nursing care off site at related campus. The subject property is located at 7 RiverWoods Drive in the R-1, Low Density Residential zoning district. Tax Map Parcel #97-23. ZBA Case #22-15.

The application of RiverWoods Company of Exeter for a variance from Article 2, Section 2.2.26, Definition of “Elderly Congregate Health Care Facilities” to permit skilled nursing care off site on related campus. The subject property is located at 5 Timber Lane, in the R-1, Low Density Residential zoning district. Tax Map Parcel #98-37. ZBA Case 22-16.

The application of 107 Ponemah Road LLC for a special exception per Article 4, Section 4.2, Schedule I: Permitted Uses and Article 5, Section 5.2 to permit the conversion of the existing single family dwelling and attached barn located at 50 Linden Street to a three-family home. The subject property is situated in a R-2, Single Family Residential zoning district. Tax Map Parcel #82-11. ZBA Case #22-17.

OTHER BUSINESS:

- Approval of Minutes: September 20, 2022

EXETER ZONING BOARD OF ADJUSTMENT

Kevin M. Baum, Chairman



CELEBRATING OVER 35 YEARS OF SERVICE TO OUR CLIENTS

LIZABETH M. MACDONALD
JOHN J. RATIGAN
DENISE A. POULOS
ROBERT M. DEROSIER
CHRISTOPHER L. BOLDT
SHARON CUDDY SOMERS
DOUGLAS M. MANSFIELD
KATHERINE B. MILLER
CHRISTOPHER T. HILSON
HEIDI J. BARRETT-KITCHEN
JUSTIN L. PASAY
ERIC A. MAHER
CHRISTOPHER D. HAWKINS
VASILIOS "VAS" MANTHOS
ELAINA L. HOEPPNER
WILLIAM K. WARREN

RETIRED
MICHAEL J. DONAHUE
CHARLES F. TUCKER
ROBERT D. CIANDELLA
NICHOLAS R. AESCHLIMAN

August 1, 2022

Kevin Baum, Chair
Zoning Board of Adjustment
Town of Exeter
10 Front Street
Exeter, NH 03833

Re: 7 RiverWoods Drive, Map 97, Lot 23

Dear Chair Baum and Board Members:

Enclosed please find application for variances together with supporting information, abutter list and labels and check for filing and abutter fees. RiverWoods proposes to eliminate 60 skilled care beds and replace them with 35 independent dwelling units at 7 RiverWoods Drive with the skilled care beds being moved to the Ridge campus on White Oak Drive.

We respectfully request that this matter be placed on the Board's August 16, 2022 agenda. In the meantime, if you have any questions do not hesitate to contact me.

Very truly yours,
DONAHUE, TUCKER & CIANDELLA, PLLC

Sharon Cuddy Somers
SCS/sac
Enclosures

cc: RiverWoods Company
Altus Engineering
AG Architects

S:\RA-RL\RiverWoods Company\Health Center & Woods Expansion 2022\ZBA Materials\Final Filing Materials\2022 08 01 ZBA letter.docx

DONAHUE, TUCKER & CIANDELLA, PLLC
16 Acadia Lane, P.O. Box 630, Exeter, NH 03833
111 Maplewood Avenue, Suite D, Portsmouth, NH 03801
Towle House, Unit 2, 164 NH Route 25, Meredith, NH 03253
83 Clinton Street, Concord, NH 03301

LETTER OF AUTHORIZATION

I, Justine Vogel, Chief Executive Officer of Riverwoods Company at Exeter, owner of property depicted on Tax Map 97, Lot 23, do hereby authorize Donahue, Tucker and Ciandella, PLLC, to execute any land use applications to the Town of Exeter and to take any action necessary for the application and permitting process, including but not limited to, attendance and presentation at public hearings, of the said property.

Dated: 8/1/22

RIVERWOODS COMPANY AT EXETER


Justine Vogel, Chief Executive Officer

ZONING BOARD OF ADJUSTMENT APPLICATION CHECKLIST

For an application to be considered complete, you must have the following:

- Application Form.
- Complete Abutters List.
- Three (3) pre-printed 1" x 2 5/8" labels for each abutter, the applicant and all consultants.
- Letter of Explanation.
- Vicinity Ownership Map.
- Ten (10) copies of Entire Application. (10 plus original)
- Letter from Owner Authorizing Applicant to file on Owner's behalf.
- Filing Fees: *effective January 1, 2008*
 - \$100.00 Application Fee.
 - \$10.00 Per Abutter
 - Legal Notice Fee: Actual Cost of Advertisement.

Note: All of the above referenced items must be submitted to the Planning Office on or before deadline dates. See Schedule of Deadlines and Public Hearings for more information.

Town of Exeter
APPLICATION FOR A

VARIANCE

Case Number: _____
Date Filed: _____
Application Fee: \$ _____
Abutter Fees: \$ _____
Legal Notice Fee: \$ _____
TOTAL FEES: \$ _____
Date Paid _____ Check # _____

Name of Applicant RiverWoods Company of Exeter
(If other than property owner, a letter of authorization will be required from property owner)

Address 7 RiverWoods Drive, Exeter, NH 03833

Telephone Number (603) 658-1789

Property Owner same

Location of Property 7 RiverWoods Drive, Tax Map 97, Lot 23, R-1 Zone

Applicant Riverwoods Company of Exeter by and through their attorneys, Donahue, Tucker & Ciandella
Signature *Sharon Cuddy Somers*
Sharon Cuddy Somers, Esq.
Date _____

*NOTE: This application is not acceptable unless all required statements have been made.
Additional information may be supplied on a separate sheet if space is inadequate.*

APPLICATION FOR A VARIANCE

A variance is requested from article 4 & 2 section 4.3 & 2.2.26 of the Exeter zoning ordinance to permit:

the elimination of 60 skilled care beds and add 35 independent living units
where such units would exceed the allowed density of three dwelling units per
acre and to permit skilled nursing care off site at related campus

FACTS SUPPORTING THIS REQUEST:

1. The variance will not be contrary to the public interest;

see attached

2. The spirit of the ordinance is observed;

see attached

3. Substantial justice is done;

see attached

4. The values of surrounding properties are not diminished;

see attached

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

see attached

ABUTTER LABELS AND LISTS:

Abutter labels and lists must be attached to this application. Please contact the Planning Office if you have any questions.

ADDITIONAL MATERIALS:

If provided with the application, additional submission materials will be sent to the ZBA members in their monthly packet of information. Please contact the Planning Office if you have any questions regarding additional submission materials.

RiverWoods Company at Exeter
Tax Map 97, Lot 23
7 RiverWoods Drive, Exeter New Hampshire
R-1 Zone

RiverWoods Company at Exeter (hereafter “RiverWoods”) requests a variance from the terms of Article 4, Section 4.3 Density Regulations, to allow for the construction of a building to contain up to thirty five (35) independent dwelling units for residents at The Woods campus (hereinafter “The Woods”), where such units would exceed the allowed density of three dwelling units per acre. The building will be located in the same location currently occupied by The Woods Health Center. RiverWoods also seeks a variance from the terms of Article 2, Section 2.2.26.

RiverWoods proposes to move The Woods Health Center to the Ridge and to consolidate it with the health centers of the other campuses. The definition of elderly congregate health care facilities calls for on site nursing home facilities licensed by the State of New Hampshire.¹ While such facilities will continue to be offered to The Woods residents, the services will not technically be offered “on site” and instead will be offered at The Ridge as part of a centralized health center.

The property is located at 7 RiverWoods Drive on the south side of Route 111 and is known as “The Woods”. The property is depicted on the GIS Map and Altus Plan attached as **Exhibit 1**).

INTRODUCTION

RiverWoods currently consists of a multi campus community all under the same ownership and all under the same management, with the original campus, “The Woods” located on the south side of Route 111 and the other two campuses “The Boulders” and “The Ridge” located on the north side of Route 111. The Woods was originally constructed in 1991 pursuant to a special exception granted under Article 6, Elderly Congregate Health Care Facilities. There are currently 201 dwelling units at The Woods spread over 80+ acres; this number of independent dwelling units complies with the density requirements of Article 4, however, further dwelling units would exceed the allowed density if the calculations were made based on a subtraction of the land subject to the conservation easement.

Subsequent to the construction of The Woods, and starting in 2002, two additional campuses were constructed on the north side of Route 111. Each campus currently contains a health center. The nature of the RiverWoods community is that each of the campuses is unique, and yet the relations and operations among the three campuses are fluid. This core nature of the community is reflected in the evolution of planning for the future of RiverWoods and is no more evident than planning for the health care needs of the RiverWoods community. Beginning

¹ Note that RiverWoods does not use the term nursing home facility and instead uses the term health center. However, to avoid confusion with the terms of the zoning ordinance, RiverWoods will use the term nursing home facility within this variance application.

before, but accelerated by, the pandemic, RiverWoods became convinced that the efficiency and efficacy of delivering health care services would be substantially increased if a central health care facility, serving all three campuses, could be constructed on one campus and that the health centers on the remaining two campuses would be abandoned.

This planning exercise is now entering the next phase with a plan underway to propose a centralized health center at “The Ridge.” The plan is not yet complete, but at the appropriate time will be presented to the Town of Exeter for full review by the Planning Board and, if needed, by the Zoning Board of Adjustment.

In the interim, planning is in play for the physical space at The Woods which is currently occupied by the health center, and which will become a vacant spot once the centralized health center is constructed at The Ridge. RiverWoods, responding to a wait list for potential residents of over 350 at any given point in time, would like to take advantage of the opportunity to populate what will become vacant space at The Woods with up to thirty five independent dwelling units notwithstanding that such a proposal will exceed the density allowed under Article 4 if the conservation easement acreage is deducted in the calculations. . RiverWoods understands that the Zoning Board of Adjustment may have concerns about the subject variance being granted and going into effect prior to the centralized health center becoming approved, and RiverWoods agrees to an appropriate condition of approval since RiverWoods would not proceed with The Woods independent living units anyway until they can be assured that the centralized health center will become a reality.

Set forth below are the arguments which support why each of the variance criteria are met to allow for thirty five independent dwelling units at The Woods which will exceed the allowed density and to allow for a health center for Woods residents at The Ridge campus , despite the requirement of the “ Elderly Care Congregate Facility” to provide for such services on site. Following your review of our submitted materials and our presentation at the public hearing, we respectfully request that both variances be granted as presented.

SECTION I. DENSITY RELIEF

1. The variance will not be contrary to the public interest.

Granting the variance will not be contrary to the public interest. To be contrary to the public interest, the variance must unduly and to a marked degree violate the relevant ordinance’s basic zoning objectives. Determining whether the basic objective of the ordinance is violated can be measured by whether the variance will alter the essential character of the locality, or by whether it would threaten public health, safety or welfare.

The basic objective of the density ordinance for this property is comprised of two parts. First, the objective is to control the sheer number of residents on a property and to prevent overcrowding. Note that based on the definition of “dwelling unit” density requirements under

Article 4 are applied to only occupants of independent living units, and not to occupants of the health center. RiverWoods contends that the variance review should be conducted in the context of the impact to the total number of occupants at The Woods, and which will be discussed further. Second the general objective of preventing overcrowding needs to be read in the context of the purpose language not only the generic objective associated with density ordinances, but the objective of the Elderly Congregate Health Care Facilities Ordinance as specified in Article 6, Section 6.1.1 and which states:

“The regulations in this article have been established for the purpose of encouraging the construction of dwelling units suitable for occupancy by elderly persons, while ensuring compliance with local planning standards, land use policies, good building design and other requirements consistent with promoting the public health, safety and general welfare of the inhabitants of Exeter.”

The proposed construction of up to thirty five independent living units in The Woods in the building that currently contains The Woods health center will not be contrary to the basic objective of preventing overcrowding because the fifty nine health care units will no longer be present at the site and instead will reside at The Ridge campus in a new health center. Further, based on general patterns of occupancy noted in the congregate care industry, the occupants of thirty five independent living units will be approximately fifty two and thus the net effect will actually have a slight decrease in the overall population and thus no overcrowding will occur. Further, given that the objective of the elderly congregate health care facility ordinance is to encourage dwelling units for elderly persons and to promote the public health, safety and general welfare of the inhabitants of Exeter, and given that the elderly population in New Hampshire is one of the highest in the country , and that the need for housing is great, the creation of thirty five new independent living units will promote the general welfare of Exeter and the de minimis impact on density does not undercut this conclusion.

The basic objectives of the ordinance outlined above must also be viewed against the essential character of the locality to ascertain whether granting the variance will alter the essential character. In this case, granting the variance will not alter the locality. As stated earlier, The Woods campus was constructed in its current configuration and is surrounded on two sides by single family homes, on the third side by a railroad track with single family homes beyond and on the fourth side by RiverWoods Drive which leads out to Route 111. The proposed location of the thirty five independent living units will be in the same spot as an existing building, so nearby homes will not have new independent living units constructed near them and the appearance of The Woods to neighboring properties will not be altered (See architectural renderings attached as **Exhibit 2**).

The addition of thirty five independent living units will not threaten public health, safety or welfare. Any safety concerns generated by fire and police needs for the additional thirty five units will be addressed by RiverWoods and will additionally be scrutinized as part of site review if site review is required. Any concerns about internal traffic impacts will be scrutinized as part of site review. External impacts will be negligible due to the fact that all traffic will enter and exit from the existing access point on RiverWoods Drive and Route 111, and the increase of traffic from the independent living units will be offset by the decrease in traffic from staff who

are no longer needed at The Woods health center. (See report of Steve Pernaw attached as **Exhibit 3**).

2. The spirit of the ordinance is observed.

Under New Hampshire law, this variance criteria is essentially merged with the “public interest” criteria. As stated above, the spirit of the ordinance is to control the sheer number of residents on a property and to prevent overcrowding. For the reasons stated above, the spirit of the ordinance will be observed if the variance is granted.

3. The values of surrounding properties are not diminished.

Granting the variance to allow up to thirty five independent dwelling units in the location of the current health center will not diminish property values. The Woods has been in existence since 1991 and its impact on property values of the surrounding properties is established. The proposed independent dwelling units will be located in the same spot where the existing health center exists and thus surrounding properties will not experience new independent living units in close proximity to their properties. Additionally, the current use of The Woods includes both occupants of a health center and independent dwelling units. The addition of thirty five independent living units will not alter the inherent nature of the daily use of the property and thus will not diminish the property values. Any off-site impact to traffic will be de minimis to surrounding properties as described above.

RiverWoods is not aware of any information or evidence that would suggest that the addition of up to thirty five independent dwelling units at the Woods will diminish the values of surrounding properties.

4. Substantial justice is done.

The relevant analysis under this element of the variance criteria is whether the benefit to the applicant of granting this variance will be outweighed by a detriment or loss to the individual or to the public at large. Here, the benefit to RiverWoods is that what will become an empty building can be converted to create independent living units, thus helping to address a pronounced need for more of such units. Currently, RiverWoods has a waiting list of 350 people seeking to move in as residents in independent living units. The fortuitous existence of an empty spot to construct independent living units is one that RiverWoods cannot afford to ignore. Moreover, the independent living units to be added are part of the larger planning exercise of constructing centralized health care and obtaining permission for this piece of the exercise is vital.

By contrast, there is no known harm to the public or to any individual to granting the variance from density requirements for the proposal described herein. The public will not be harmed because the impact, if any, of the additional residents will be experienced principally within The

Woods property itself. To the extent there is any conceivable public detriment, it would be traffic related, and as described herein, the net change to traffic exiting and entering the property will be de minimis due to the fact that the added cars from residents at the independent living units will be offset by a reduction in cars from staff because there will no longer be a need for staff to serve the residents of The Woods health center. Likewise, there is no detriment to any individual. Neighboring properties have an established neighbor in the form of The Woods campus, and the substitution of a similar number of residents in independent living units to that which exists in the health center will not be detrimental, particularly given that the independent units will be constructed in an existing location, no closer to neighboring properties.

5. Unnecessary hardship

A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

The property is distinguished from other properties in the area. It consists of a large 80+ acre parcel with access from RiverWoods Drive and Route 111. Unlike other properties in the area which are primarily, if not exclusively, single family homes, RiverWoods contains a residential community permitted by special exception under Exeter's elderly congregate health care facility ordinance in 1991. The property comprises one campus in what is a multi-campus community, all of which are located directly across from each other off of Route 111.

RiverWoods is proposing to remove the health center at The Woods campus and relocate those residents to a new facility at The Ridge. If the centralized health center proceeds as planned on the Ridge Campus, then the Woods campus will have an empty building. No additional independent units can be constructed elsewhere at the Woods due to the fact the unbuilt portion of the campus is largely subject to a conservation easement. As a result, the property will contain a vacant spot within the large parcel, and the denial of permission to utilize that area will be an unnecessary hardship.

B. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:

The general public purpose of the ordinance is to prevent overcrowding on any particular lot and to do so in the context of the purposes of the elderly congregate health care facilities. Here, those purposes will be applied to the installation of independent living units in an existing location on The Woods campus which historically been used as a health center for The Woods residents. The number of potential occupants in the Woods health center at any given time is 59; the number of occupants in thirty five independent units is estimated to be 52, thus, creating no increase in the numbers of residents within the campus as a whole and, in fact, reducing the number of residents. Further, the fact that the new residents will be located in an existing spot, and not in new buildings located elsewhere in the campus will eliminate any perception of increased density to other residents on that campus.

C. The proposed use is a reasonable one:

The nature of RiverWoods is such that it is now a multi-campus community. The needs of the community are such that a centralized health center, serving all campuses, is believed to be the best way to provide the highest quality and most efficient health care for all of the campuses. This health center will be pursued in the future at the Ridge and certainly will be the subject of additional review by local and state agencies. In the meantime, however, it is reasonable to have a concrete approved plan in place so that when the Woods health center becomes vacant that RiverWoods can immediately begin work to utilize that space and convert it to independent living units to help meet a pronounced need. The impact of the units will not contravene the intent of density regulations because the number of residents at The Woods will be comparable if not less than that which is there now and the only potential impact to the public, namely traffic, will be muted because of the reduction in staff cars.

SECTION II. RELIEF TO ALLOW NURSING HOME FACILITIES AT THE RIDGE

1. The variance will not be contrary to the public interest.

Granting the variance will not be contrary to the public interest. To be contrary to the public interest, the variance must unduly and to a marked degree violate the relevant ordinance's basic zoning objectives. Determining whether the basic objective of the ordinance is violated can be measured by whether the variance will alter the essential character of the locality, or by whether it would threaten public health, safety or welfare.

The basic objective of the ordinance requiring that on site nursing home facilities be present on site is to have consistency with the notion that the campus is one of "congregate" care, and that a person entering RiverWoods in an independent living unit can remain there until their last days, including, if need be, a nursing home facility. Here, as explained above, RiverWoods has evolved over the years to include a somewhat symbiotic relationship between the campuses, such that residents of each campus have interaction with other campuses. As a result, having a nursing home facility at the Ridge will not unduly and to a marked degree violate the basic zoning objective because unlike having a nursing home facility in a completely different part of town, the new location will merely be in a different campus in the multi campus community.

The basic objective outlined above must also be viewed against the essential character of the locality to ascertain whether granting the variance will alter the essential character of the locality. Based on the comments made in the density relief component of this presentation, having the nursing home facilities located at the Ridge will not alter the essential character of the locality adjacent to the Woods. Similar comments can be made regarding the locality of the Ridge in that it has an established health center, and the area surrounding The Ridge campus and The Boulders campus contain largely single family homes.

Locating the nursing home facility serving The Woods residents at The Ridge campus will not threaten the public health, safety or welfare. First and foremost, the public health and welfare will not be threatened because The Woods residents will continue to have the highest quality health services, and the intention is that centralized services located at The Ridge will even enhance those services. With regard to public safety, as stated earlier, fire and police needs, and external traffic generated by the new location of health services will be scrutinized during site review for The Ridge proposal. Further, any internal traffic impacts at The Woods, such as the possible need for residents to visit a spouse at The Ridge health center, are likely to be minimal and will be scrutinized as part of site review if required.

2. The spirit of the ordinance is observed.

Under New Hampshire law, this variance criteria is essentially merged with the “public interest” criteria. As stated above, the spirit of the ordinance is to ensure that nursing home facilities are offered to residents in a manner whereby they will remain physically part of the community. For the reasons stated above, the spirit of the ordinance will be observed if the variance is granted.

3. The values of the surrounding properties will not be diminished.

Granting the variance to allow for nursing home care for The Woods residents to occur at The Ridge campus will not diminish the values of surrounding properties. All three campuses of the multi campus community have been in existence for some time, and the impact of health centers on the property values of surrounding properties is established. Moving the nursing home facility for The Woods residents off of The Woods campus to a location across the street will not impact the values of the properties surrounding The Woods. No diminution in value will occur either in properties surrounding The Ridge campus since the use will remain the same. RiverWoods agrees that if the variance is granted, that it can be conditioned on not going into effect until the centralized health center is approved. Any impacts to the Ridge campus from the centralized health center will be vetted by means of the site review process.

RiverWoods is not aware of any information or evidence that would suggest that the location of the nursing home facility for The Woods residents at The Ridge campus will diminish the values of surrounding properties.

4. Substantial justice is done.

The relevant analysis under this element of the variance criteria is whether the benefit to the applicant of granting this variance will be outweighed by a detriment or loss to the individual or to the public at large. Here, the benefit to RiverWoods is that having nursing home care outside of The Woods, but across the street at The Ridge, will be that the proposed centralized health center, the need for which is outlined in other portions of this application, will be one step closer to realization.

By contrast, there is no known harm to the public at large from moving The Woods nursing home facility across the street to The Ridge. Similarly, no known harm exists for individuals

outside of The Woods. With regard to the residents of The Woods, the proposed relocation of the nursing home facility has been discussed with them over the course of the past eight months and the reasoning for doing so is understood by the residents.

5. Unnecessary hardship.

A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

The property on which The Woods health center sits was the first campus of what has evolved into a multi campus community, all providing elderly congregate care services. All campuses are located directly across from each other off of Route 111. The variance at issue is to allow a deviation from the definition of elderly congregate health care such that the nursing home facility for The Woods will now be located across the street. The New Hampshire Supreme Court has recognized that aspects of a property which might in some circumstances be irrelevant for a hardship analysis, can become relevant based on the circumstances of the variance. Harborside Associates v. Parade Residence Hotel, LLC 162 NH 508 (2011). Here, The Woods is part of a multi campus community, all offering elderly congregate care, and a centralized health center is contemplated to serve all campuses. Under these circumstances, the special condition of the property is that the nursing home care that would otherwise need to be provided at The Woods can be provided in close proximity to The Woods, but in a manner which will offer the highest quality service. To deny the variance for the sake of strict adherence to having a nursing home onsite will mean that the care objectives of efficient and effective health services for the multi campus community may be impaired.

B. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific provision to the property because:

The general public purpose of the ordinance is to ensure that the continuum of care which is one of the central tenets of “congregate care” is provided all in one place so as to foster a sense of community.

RiverWoods has over the years evolved into a multi campus community. Because the multiple campuses form a community, planning for the community occurs both with regard to the needs of the individual campuses and the needs of the community as a whole. Here, the needs of the community as a whole are to create a central health care center and in so doing, offer the highest level health care possible. On this issue, the needs of the individual campuses coincide with the needs of the community.

As a result, there is no fair and substantial relationship between the purpose of the ordinance and the strict application to the proposal at hand.

C. The proposed use is a reasonable one:

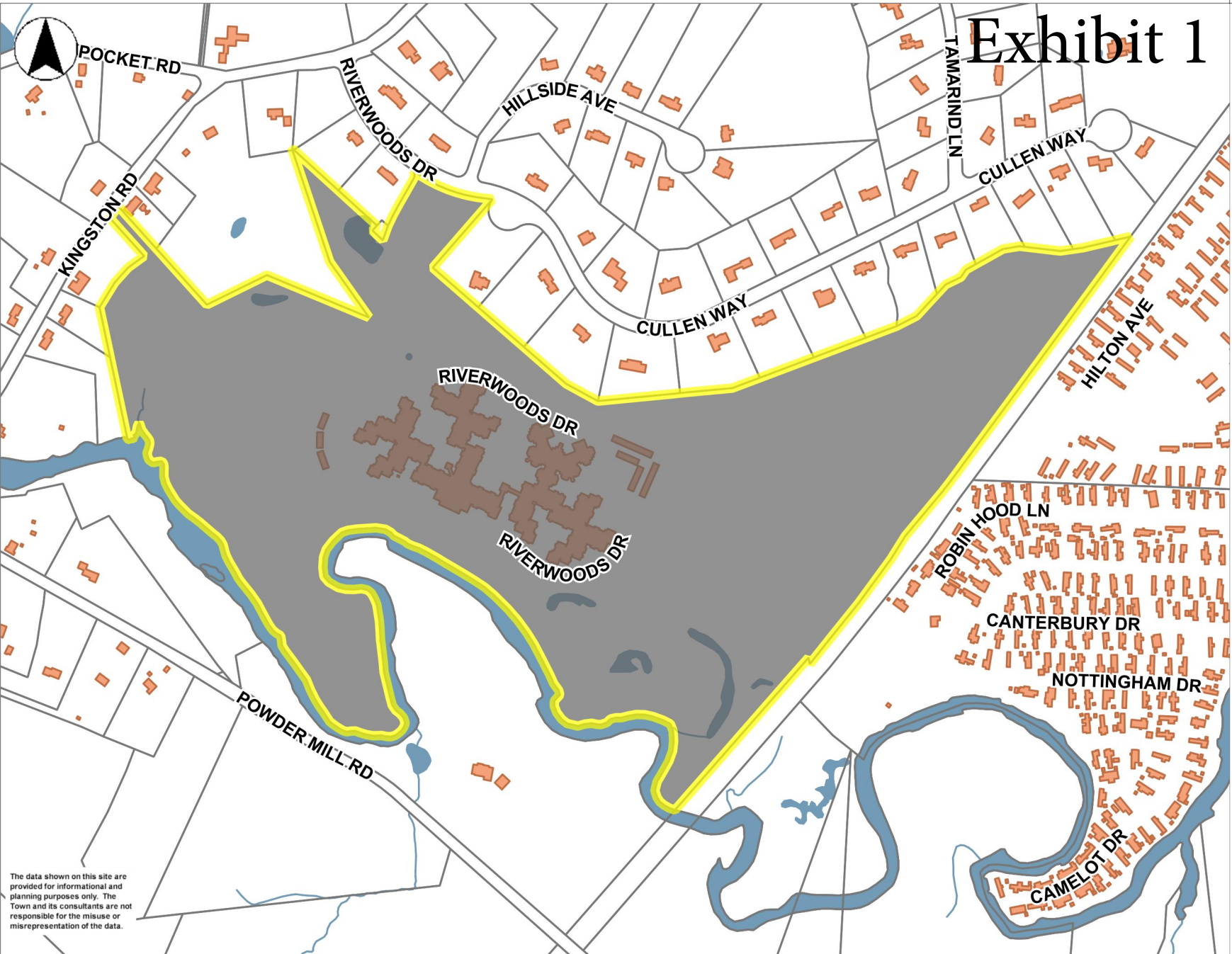
The applicant proposes to provide to The Woods residents nursing home care as licensed by the State of New Hampshire. The only difference between what is offered now and what is

proposed is that the location of the service will be at The Ridge campus, a very short distance from the current location. On balance, the proposed use is reasonable since it still meets the spirit of the ordinance by providing the service within the RiverWoods multi campus community, and yet it does so in what is hoped to be the most efficient manner possible.

S:\RA-RL\RiverWoods Company\Health Center & Woods Expansion 2022\ZBA Materials\2022 08 01 Variance Narrative Final.docx



Exhibit 1

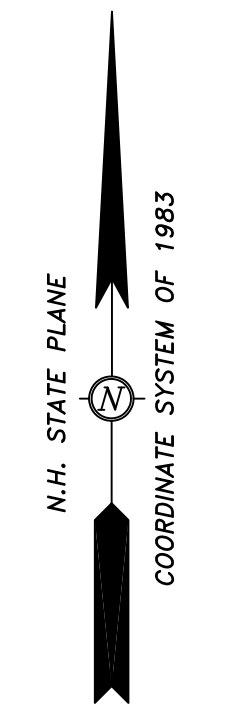
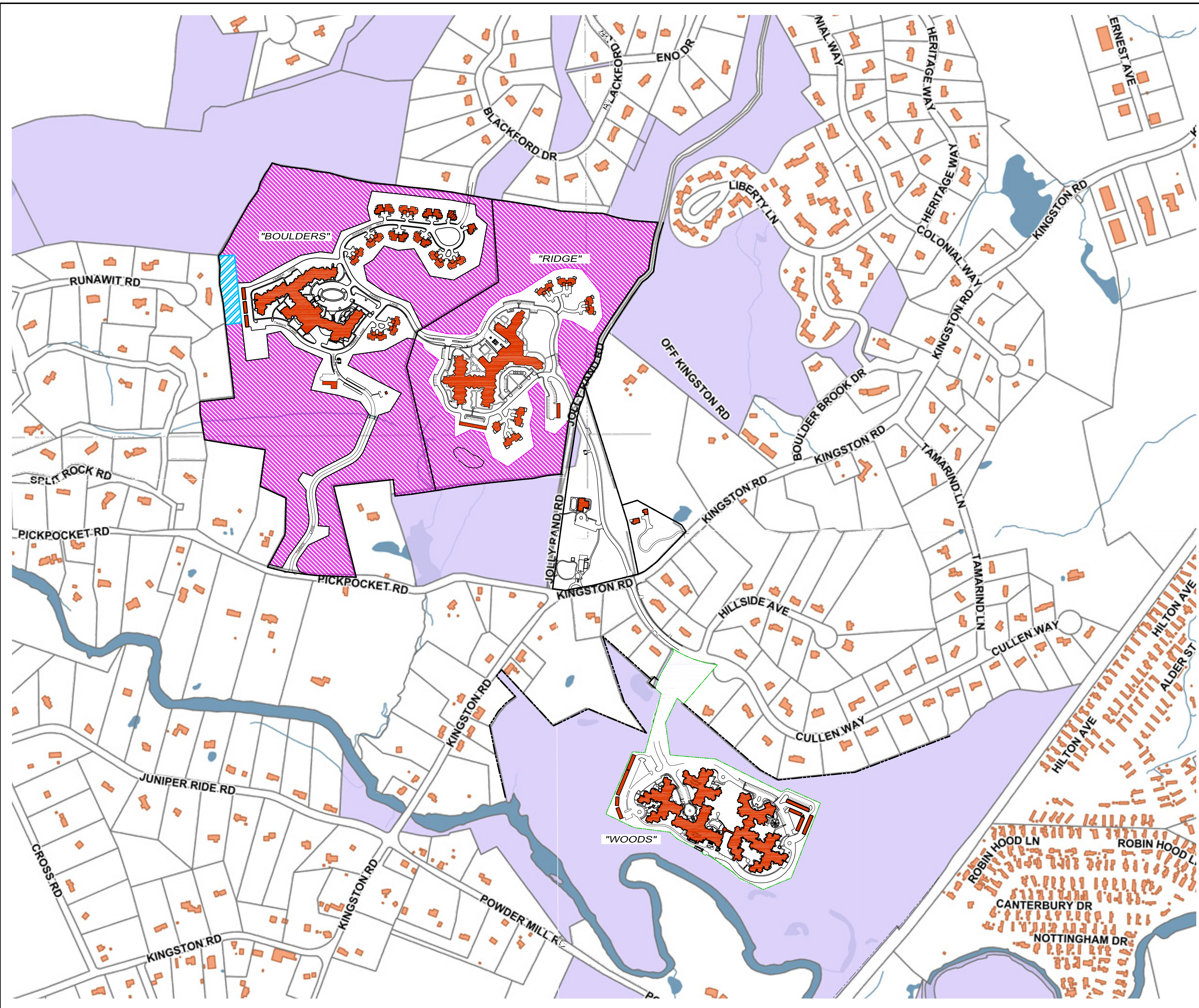


- Parcels
- NH Highways
- Interstate
- US Highway
- State Highway
- Town Boundary
- Abutting Towns
- Streets (Updated Feb 2019)
- Misc Streams
- Parcel Streams
- Open Water
- Buildings

The data shown on this site are provided for informational and planning purposes only. The Town and its consultants are not responsible for the misuse or misrepresentation of the data.

0 640 1280 ft

Printed on 07/25/2022 at 10:23 AM



LEGEND:

- CONSERVATION LAND (PER TOWN GIS)
- CONSERVATION LAND (ON RIVERWOODS LAND)
- EXISTING USE EASEMENT IN FAVOR OF ABUTTER (ARCHIBALD)

NOTES:

1. THIS PLAN IS A BEST FIT COMPOSITE DEVELOPED FOR RIVERWOOD BY USING THE TOWN GIS MAPPING OVERLAID WITH VARIOUS SITE PLANS PREPARED BY ALTUS ENGINEERING (THE RIDGE, THE BOULDERS, ADMINISTRATION BUILDING AND THE WOODS - FESTIVAL AREA, FRANCONIA WING, PINKHAM VILLAGE IMPROVEMENTS, LODGE WING, CARPORT EXPANSION) AND 'THE WOODS SITE PLAN' PREPARED BY KIMBALL CHASE, DATED 1991.
2. THIS PLAN HAS BEEN PREPARED AS A STUDY PLAN FOR CONCEPTUAL PLANNING PURPOSES ONLY AND IS NOT APPROPRIATE FOR, NOR INTENDED TO BE USED FOR DESIGN PURPOSES.
3. ALTUS MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, REGARDING THE ACCURACY OR COMPLETENESS OF THIS DOCUMENT.
4. ADDITIONAL FEATURES, EASEMENTS, AND RESTRICTIONS ARE KNOWN TO EXIST AT THE RIVERWOODS PROPERTIES, BUT HAVE NOT BEEN ADDED TO THIS DRAWING FILE.

CAMPUS COMPOSITE PLAN
FOR
RIVERWOODS AT EXETER

DATE: JULY 26, 2022
SCALE: 1"=300' (22"x34")
PROJECT: P5015

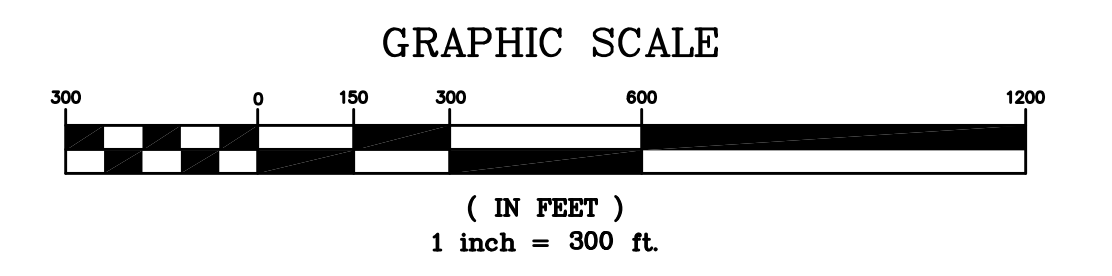
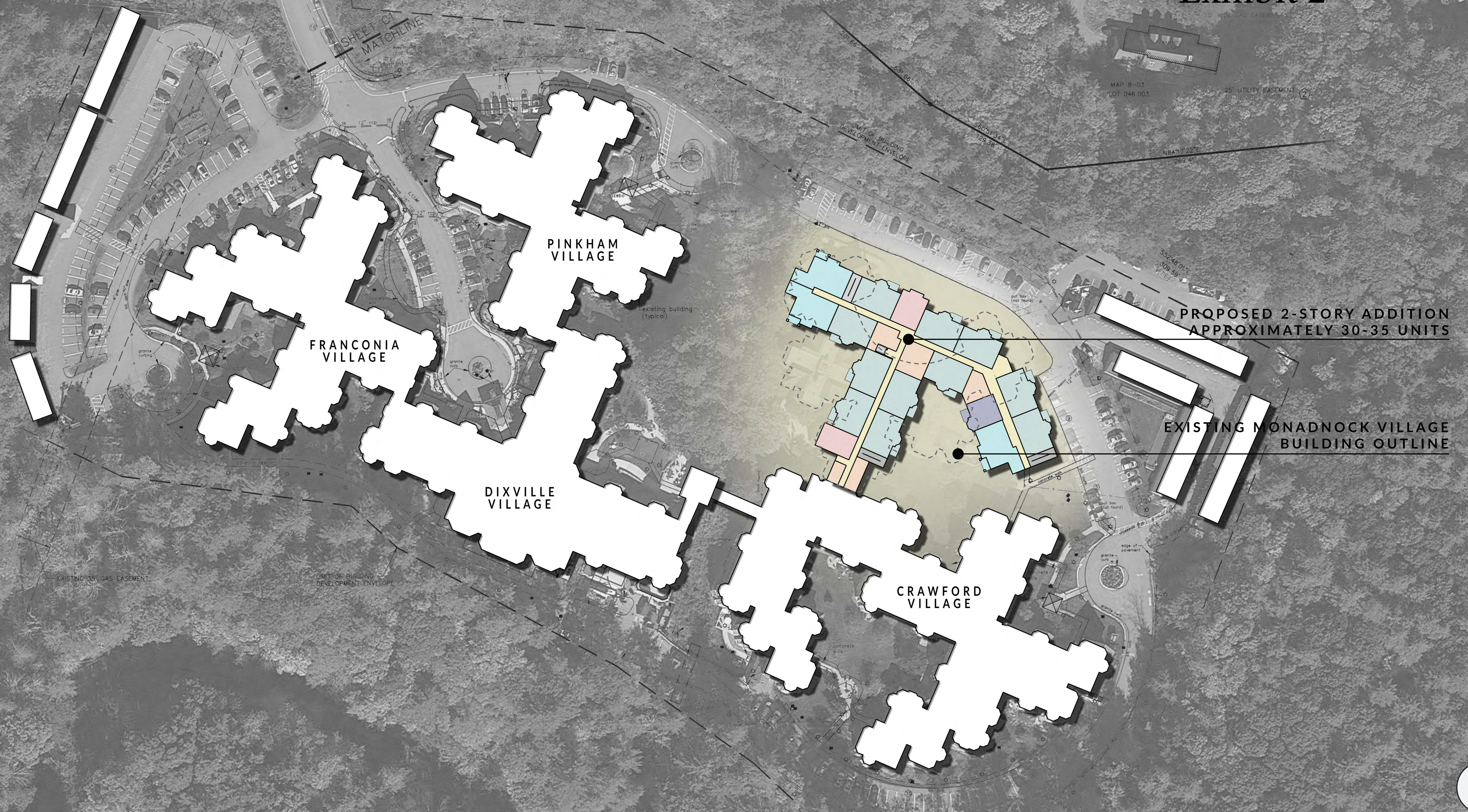


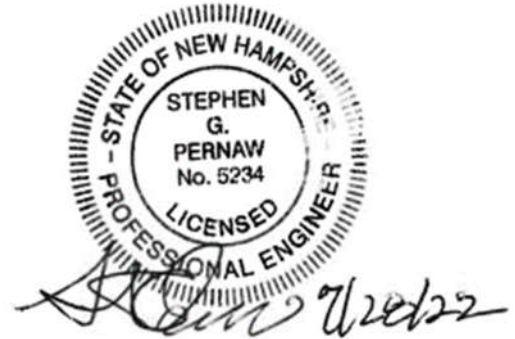
Exhibit 2



SCALE | 1" = 40'-0"

MEMORANDUM

Ref: 2225A
 To: Sharon Cuddy Somers, Esquire
 Donahue, Tucker & Ciandella, PLLC
 From: Stephen G. Pernaw, P.E., PTOE
 Subject: RiverWoods – Proposed Independent Living Units
 Exeter, New Hampshire
 Date: July 28, 2022



As requested, Pernaw & Company, Inc. has conducted this trip generation analysis on behalf of RiverWoods to address the proposed changes at “The Woods” site on Riverwoods Drive. More specifically, the proposal is to eliminate the existing healthcare facility and replace it with 35 independent living units. Access to the subject site will not change. The results of the trip generation analyses are summarized on Table 1, and clearly show that the proposed “change of use” will translate into fewer vehicle-trips on both a daily and peak hour basis. The trip generation calculations are attached (see Attachments 1-4).

Table 1	Trip Generation Summary - The Woods RiverWoods Exeter		
	Deduct Healthcare Trips ¹	Add Independent Living Trips ²	Net Change
Weekday (24 Hours)			
Entering	-78 veh	63 veh	-15 veh
Exiting	-78 veh	63 veh	-15 veh
Total	-156 trips	126 trips	-30 trips
AM Peak Hour			
Entering	-36 veh	3 veh	-33 veh
Exiting	0 veh	5 veh	5 veh
Total	-36 trips	8 trips	-28 trips
PM Peak Hour			
Entering	0 veh	5 veh	5 veh
Exiting	-36 veh	4 veh	-32 veh
Total	-36 trips	9 trips	-27 trips

¹ Based on work shift schedules: 1st = 36, 2nd = 21, 3rd = 21 employees
² ITE Land Use Code 252 - Senior Adult Housing - Multifamily

The relocation of healthcare beds from the Woods site to the Ridge site will not impact the volume of traffic on NH111; rather it will just alter the turning movement patterns at the subject intersection. For example, a left-turn arrival from NH111 will become a right-turn arrival, etc.

Attachments

Land Use: 252

Senior Adult Housing—Multifamily

Description

Senior adult housing—multifamily sites are independent living developments that are called various names including retirement communities, age-restricted housing, and active adult communities. The development has a specific age restriction for its residents, typically a minimum of 55 years of age for at least one resident of the household.

Residents in these communities are typically considered active and requiring little to no medical supervision. The percentage of retired residents varies by development. The development may include amenities such as a golf course, swimming pool, 24-hour security, transportation, and common recreational facilities. They generally lack centralized dining and on-site health facilities.

The dwelling units share both floors and walls with other units in the residential building. Senior adult housing—single-family (Land Use 251), congregate care facility (Land Use 253), assisted living (Land Use 254), and continuing care retirement community (Land Use 255) are related land uses.

Additional Data

The technical appendices provide supporting information on time-of-day distributions for this land use. The appendices can be accessed through either the ITETripGen web app or the trip generation resource page on the ITE website (<https://www.ite.org/technical-resources/topics/trip-and-parking-generation/>).

The sites were surveyed in the 1980s, the 1990s, and the 2000s in Alberta (CAN), California, Maryland, New Hampshire, New Jersey, Ontario (CAN), and Pennsylvania.

Source Numbers

237, 272, 576, 703, 734, 970, 1060

Graph Look Up

Query **Filter**

DATA SOURCE:
 Trip Generation Manual, 11th Ed

SEARCH BY LAND USE CODE:
 252

LAND USE GROUP:
 (200-299) Residential

LAND USE:
 252 - Senior Adult Housing - Multifamily

LAND USE SUBCATEGORY:
 All Sites

SETTING/LOCATION:
 General Urban/Suburban

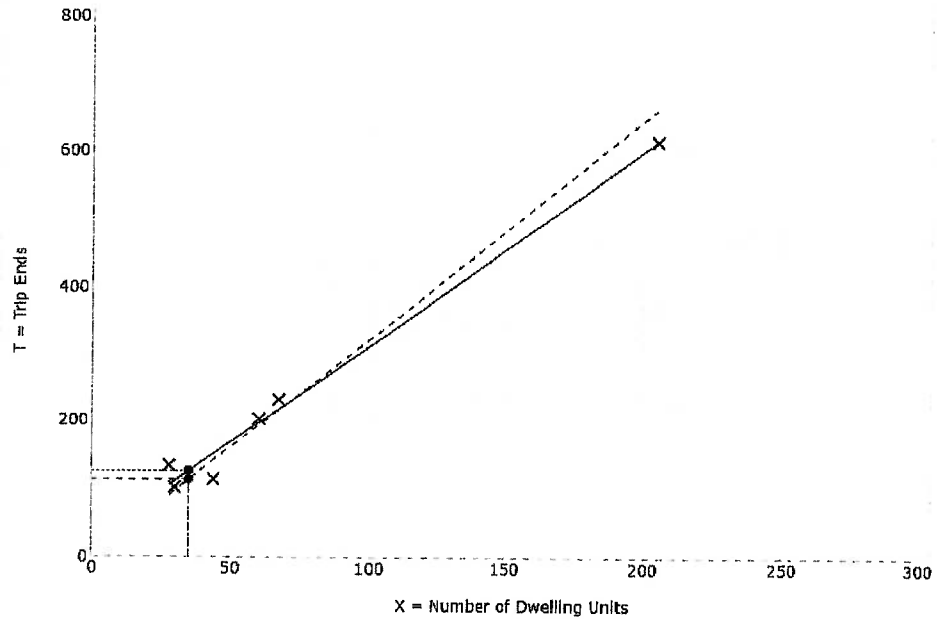
INDEPENDENT VARIABLE (IV):
 Dwelling Units

TIME PERIOD:
 Weekday

TRIP TYPE:
 Vehicle

ENTER IV VALUE TO CALCULATE TRIPS:
 35 **Calculate**

Data Plot and Equation



Reset Zoom **Restore**

X Study Site — Fitted Curve - - - Average Rate

Use the mouse wheel to Zoom Out or Zoom In.
 Hover the mouse pointer on data points to view X and T values.

DATA STATISTICS

Land Use:
 Senior Adult Housing - Multifamily (252) [Click for Description and Data Plots](#)

Independent Variable:
 Dwelling Units

Time Period:
 Weekday

Setting/Location:
 General Urban/Suburban

Trip Type:
 Vehicle

Number of Studies:
 6

Avg. Num. of Dwelling Units:
 72

Average Rate:
 3.24

Range of Rates:
 2.59 - 4.79

Standard Deviation:
 0.53

Fitted Curve Equation:
 $T = 2.89(X) + 24.82$

R²:
 0.99

Directional Distribution:
 50% entering, 50% exiting

Calculated Trip Ends:
 Average Rate: 113 (Total), 56 (Entry), 57 (Exit)
 Fitted Curve: 126 (Total), 63 (Entry), 63 (Exit)

Graph Look Up

Query **FORM**

DATA SOURCE:
 Trip Generation Manual, 11th Ed

SEARCH BY LAND USE CODE:

LAND USE GROUP:
 (200-299) Residential

LAND USE:
 252 - Senior Adult Housing - Multifamily

LAND USE SUBCATEGORY:
 All Sites

SETTING/LOCATION:
 General Urban/Suburban

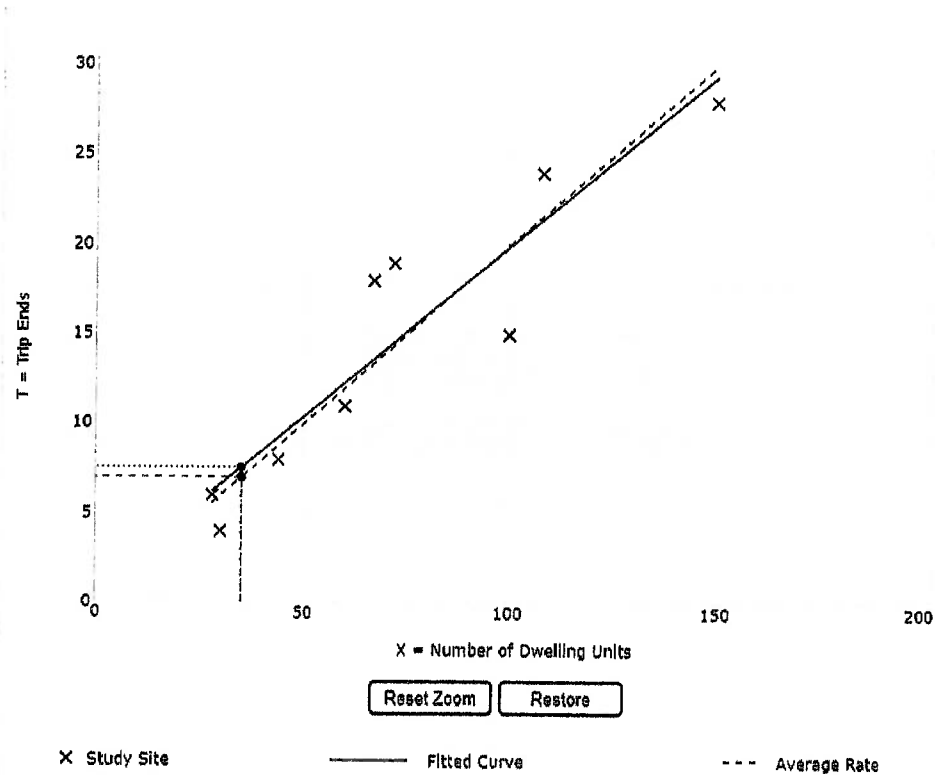
INDEPENDENT VARIABLE (IV):
 Dwelling Units

TIME PERIOD:
 Weekday, Peak Hour of Adjacent Street Traffic

TRIP TYPE:
 Vehicle

ENTER IV VALUE TO CALCULATE TRIPS:

Data Plot and Equation



DATA STATISTICS

Land Use:
 Senior Adult Housing - Multifamily (252) Click for Description and Data Plots

Independent Variable:
 Dwelling Units

Time Period:
 Weekday
 Peak Hour of Adjacent Street Traffic
 One Hour Between 7 and 9 a.m.

Setting/Location:
 General Urban/Suburban

Trip Type:
 Vehicle

Number of Studies:
 9

Avg. Num. of Dwelling Units:
 73

Average Rate:
 0.20

Range of Rates:
 0.13 - 0.27

Standard Deviation:
 0.04

Fitted Curve Equation:
 $T = 0.19(X) + 0.90$

R²:
 0.85

Directional Distribution:
 34% entering, 66% exiting

Calculated Trip Ends:
 Average Rate: 7 (Total), 2 (Entry), 5 (Exit)
 Fitted Curve: 8 (Total), 3 (Entry), 5 (Exit)

Use the mouse wheel to Zoom Out or Zoom In.
 Hover the mouse pointer on data points to view X and T values.

Graph Look Up

Query

DATA SOURCE:
 Trip Generation Manual, 11th Ed

SEARCH BY LAND USE CODE:
 252

LAND USE GROUP:
 (200-299) Residential

LAND USE:
 252 - Senior Adult Housing - Multifamily

LAND USE SUBCATEGORY:
 All Sites

SETTING/LOCATION:
 General Urban/Suburban

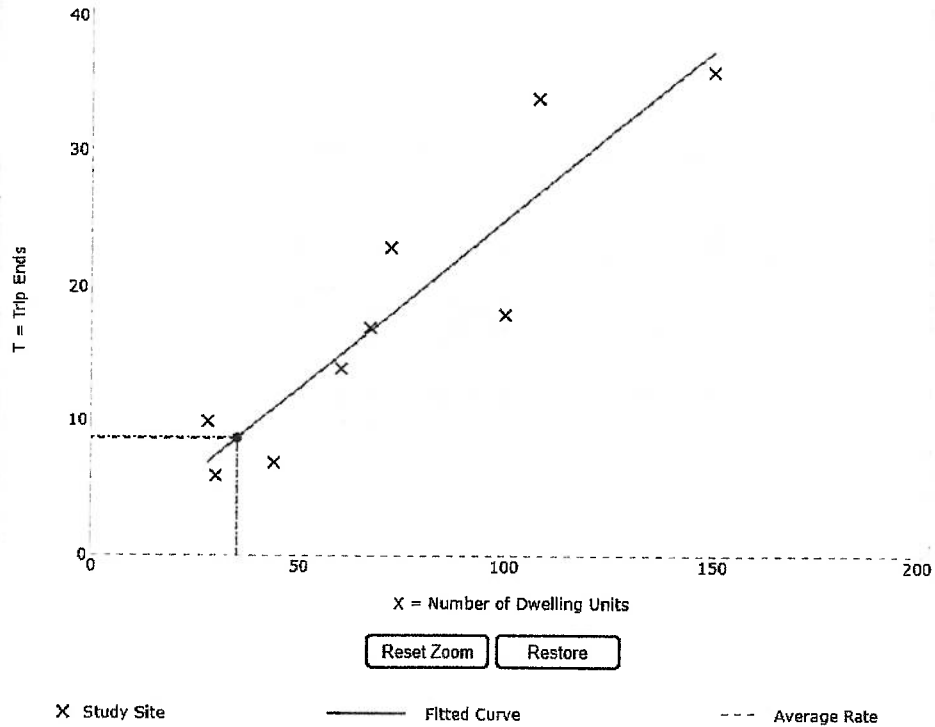
INDEPENDENT VARIABLE (IV):
 Dwelling Units

TIME PERIOD:
 Weekday, Peak Hour of Adjacent Street Traffic

TRIP TYPE:
 Vehicle

ENTER IV VALUE TO CALCULATE TRIPS:
 35

Data Plot and Equation



Use the mouse wheel to Zoom Out or Zoom In.
 Hover the mouse pointer on data points to view X and T values.

DATA STATISTICS

Land Use:
 Senior Adult Housing - Multifamily (252) [Click for Description and Data Plots](#)

Independent Variable:
 Dwelling Units

Time Period:
 Weekday
 Peak Hour of Adjacent Street Traffic
 One Hour Between 4 and 6 p.m.

Setting/Location:
 General Urban/Suburban

Trip Type:
 Vehicle

Number of Studies:
 9

Avg. Num. of Dwelling Units:
 73

Average Rate:
 0.25

Range of Rates:
 0.16 - 0.36

Standard Deviation:
 0.06

Fitted Curve Equation:
 $T = 0.25(X) + 0.07$

R²:
 0.84

Directional Distribution:
 56% entering, 44% exiting

Calculated Trip Ends:
 Average Rate: 9 (Total), 5 (Entry), 4 (Exit)
 Fitted Curve: 9 (Total), 5 (Entry), 4 (Exit)

**RIVERWOODS COMPANY AT EXETER
TAX MAP 97, LOT 23
7 RIVERWOODS DRIVE
ABUTTER LIST**

OWNER/APPLICANT:

97/23 Riverwoods Company at Exeter
7 Riverwoods Drive
Exeter, NH 03833

ABUTTERS:

73/47 Boston & Maine Railroad Corp.
1700 Iron Horse Park
North Billerica, MA 01862

102/4 Richard & Debbi Schaefer, Trustees
Schaefer Family Rev. Trust
24 Powder Mill Road
Exeter, NH 03833

97/24 & 102/3 Town of Exeter
10 Front Street
Exeter, NH 03833

97/34 Keely Rose McElwain
92 Kingston Road
Exeter, NH 03833

97/33 Christian Burns
90 Kingston Road
Exeter, NH 03833

97/32 Lauren Drinker
88 Kingston Road
Exeter, NH 03833

97/37 Sandra Bowers, Trustee
Sandra Bowers Rev. Trust
83 Kingston Road
Exeter, NH 03833

97/31 Frederick Bird, Trustee
Frederick Bird Rev. Trust
84 Kingston Road
Exeter, NH 03833

97/30 Joseph & Marlene Fitzpatrick
82 Kingston Road
Exeter, NH 03833

97/29 Robert Lannon
Sheila Groonell
78 Kingston Road
Exeter, NH 03833

97/28 Grant & Carol Murray
74 Kingston Road
Exeter, NH 03833

97/27 Portland Natural Gas
c/o Duff & Phelps
PO Box 2629
Addison, TX 75001

97/26 Susan & Daniel Sarmiento
Sarmiento Family Trust
3 Riverwoods Drive
Exeter, NH 03833

97/25 Glenn Theodore
5 Riverwoods Drive
Exeter, NH 03833

97/8 Jeffrey & Angela Tougas
4 Riverwoods Drive
Exeter, NH 03833

97/9 Christopher & Molly Lewis
6 Cullen Way
Exeter, NH 03833

97/22 Christopher & Courtney Benevides
9 Cullen Way
Exeter, NH 03833

97/21 Shivan Sarna
David Desrosiers
12 Cullen Way
Exeter, NH 03833

97/20 James & Virginia Harnett

97/19	13 Cullen Way Exeter, NH 03833 William & Kathleen Evans 15 Cullen Way Exeter, NH 03833
97/18	Colby & Stephen Nesbitt 17 Cullen Way Exeter, NH 03833
97/17	Jean Fremont-Smith, Trustee Jean Fremont-Smith Rev. Trust 19 Cullen Way Exeter, NH 03833
97/16	Terrence & Kelsey Cosgrove, Trustees Cosgrove Living Trust 21 Cullen Way Exeter, NH 03833
96/23	Lawrence Arlen Trust Jacqueline Arlen Trust 23 Cullen Way Exeter, NH 03833
96/22	Michael & Kimberly Barner 25 Cullen Way Exeter, NH 03833
96/21	Thomas & Kristen Ellis 27 Cullen Way Exeter, NH 03833
96/20	Nathan & Diane Day, Trustees Cullen Way Trust 29 Cullen Way Exeter, NH 03833
96/19	David & Christine Soutter 31 Cullen Way Exeter, NH 03833
96/18	Julia & Andrew McPhee 33 Cullen Way Exeter, NH 03833

96/17

Alyson & Christopher Wood
35 Cullen Way
Exeter, NH 03833

ATTORNEY:

Sharon Cuddy Somers, Esq.
Donahue, Tucker & Ciandella, PLLC
16 Acadia Lane
Exeter, NH 03833

ENGINEER:

Altus Engineering
133 Court Street
Portsmouth, NH 03801

ARCHITECT:

Russ McLaughlin
AG Architecture
1414 Underwood Avenue, Suite 301
Wauwatosa, WI 53213



CELEBRATING OVER 35 YEARS OF SERVICE TO OUR CLIENTS

LIZABETH M. MACDONALD
JOHN J. RATIGAN
DENISE A. POULOS
ROBERT M. DEROSIER
CHRISTOPHER L. BOLDT
SHARON CUDDY SOMERS
DOUGLAS M. MANSFIELD
KATHERINE B. MILLER
CHRISTOPHER T. HILSON
HEIDI J. BARRETT-KITCHEN
JUSTIN L. PASAY
ERIC A. MAHER
CHRISTOPHER D. HAWKINS
VASILIOS "VAS" MANTHOS
ELAINA L. HOEPPNER
WILLIAM K. WARREN

RETIRED
MICHAEL J. DONAHUE
CHARLES F. TUCKER
ROBERT D. CIANDELLA
NICHOLAS R. AESCHLIMAN

August 8, 2022

Kevin Baum, Chair
Zoning Board of Adjustment
Town of Exeter
10 Front Street
Exeter, NH 03833

Re: 7 RiverWoods Drive, Map 97, Lot 23

Dear Chair Baum and Board Members:

Enclosed please find architectural renderings to supplement the application for variances which was filed on August 1, 2022.

We look forward to being before the Board on August 16, 2022. In the meantime, if you have any questions do not hesitate to contact me.

Very truly yours,
DONAHUE, TUCKER & CIANDELLA, PLLC

Sharon Cuddy Somers
SCS/sac
Enclosures

cc: RiverWoods Company
Altus Engineering
AG Architects

S:\RA-RL\RiverWoods Company\Health Center & Woods Expansion 2022\ZBA Materials\Final Filing Materials\2022 08 08 ZBA letter.docx

DONAHUE, TUCKER & CIANDELLA, PLLC
16 Acadia Lane, P.O. Box 630, Exeter, NH 03833
111 Maplewood Avenue, Suite D, Portsmouth, NH 03801
Towle House, Unit 2, 164 NH Route 25, Meredith, NH 03253
83 Clinton Street, Concord, NH 03301





SCALE | 1" = 40'-0"





CELEBRATING OVER 35 YEARS OF SERVICE TO OUR CLIENTS

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ELAINA L. HOEPPNER
WILLIAM K. WARREN

RETIRED
MICHAEL J. DONAHUE
CHARLES F. TUCKER
ROBERT D. CIANDELLA
NICHOLAS R. AESCHLIMAN

September 30, 2022

Kevin Baum, Chair
Exeter Zoning Board of Adjustment
10 Front Street
Exeter, NH 03833

Re: The RiverWoods Company, at Exeter, New Hampshire, Tax Map 98, Lot 37
Application for Variance

Dear Chair Baum and Board Members

Attached please find an application for 5 Timber Lane, Tax Map 98, Lot 37 to allow for nursing home facilities at the Boulders campus of RiverWoods to be located off site as part of a master planning exercise to create a centralized health center to service all three campuses. This application is a companion to the application submitted on August 1, 2022 for The Woods campus for the same relief. While Riverwoods has identified the lot on which the Ridge campus is located to be the site of the centralized health center, RiverWoods has not yet identified the exact location on The Ridge lot. We will do so after we pass the threshold test of authorizing the proposed centralized health care use, then expend the resources to identify the precise area where the proposed center is to be located, and then design the building for site plan review by the Planning Board and, as needed, apply to this board for any variance relief necessary.

We request that this matter be scheduled at the October 18, 2022 meeting together with the variance requests previously filed on August 1, 2022.

Very truly yours,
DONAHUE, TUCKER & CIANDELLA, PLLC

Sharon Cuddy Somers
SCS/sac
Enclosures
cc: Justine Vogel, RiverWoods
Altus Engineering

DONAHUE, TUCKER & CIANDELLA, PLLC
16 Acadia Lane, P.O. Box 630, Exeter, NH 03833
111 Maplewood Avenue, Suite D, Portsmouth, NH 03801
Towle House, Unit 2, 164 NH Route 25, Meredith, NH 03253
83 Clinton Street, Concord, NH 03301

Town of Exeter
APPLICATION FOR A

VARIANCE

Case Number: _____
Date Filed: _____
Application Fee: \$ _____
Abutter Fees: \$ _____
Legal Notice Fee: \$ _____
TOTAL FEES: \$ _____
Date Paid _____ Check # _____

Name of Applicant Riverwoods Company of Exeter
(If other than property owner, a letter of authorization will be required from property owner)

Address 7 Riverwoods Drive, Exeter, NH 03833

Telephone Number (603) 658-1789

Property Owner same

Location of Property 5 Timer Lane, Tax Map 98, Lot 37, R-1 Zone

(Number, street, zone, map and lot number)
Applicant Riverwoods Company of Exeter by and through their attorneys, Donahue, Tucker & Ciandella
Signature Sharon Cuddy Somers, Esq.
Date _____

*NOTE: This application is not acceptable unless all required statements have been made.
Additional information may be supplied on a separate sheet if space is inadequate.*

APPLICATION FOR A VARIANCE

A variance is requested from article 2 section 2.2.26 of the Exeter zoning ordinance to permit:
to permit skilled nursing care off site on related campus

FACTS SUPPORTING THIS REQUEST:

1. The variance will not be contrary to the public interest;

see attached

2. The spirit of the ordinance is observed;

see attached

3. Substantial justice is done;

see attached

4. The values of surrounding properties are not diminished;

see attached

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

see attached

ABUTTER LABELS AND LISTS:

Abutter labels and lists must be attached to this application. Please contact the Planning Office if you have any questions.

ADDITIONAL MATERIALS:

If provided with the application, additional submission materials will be sent to the ZBA members in their monthly packet of information. Please contact the Planning Office if you have any questions regarding additional submission materials.

The RiverWoods Company, at Exeter, New Hampshire
Tax Map 98, Lot 37
5 Timber Lane, Exeter, New Hampshire
R-1 Zone

The RiverWoods Company, at Exeter, New Hampshire (hereafter “RiverWoods”) requests a variance from the terms of Article 2, Section 2.2.26. RiverWoods proposes to move The Boulders Health Center to the Ridge lot and to consolidate it with the health centers of the other campuses. The definition of elderly congregate health care facilities calls for on site nursing home facilities licensed by the State of New Hampshire.¹ While such facilities will continue to be offered to The Boulders residents, the services will not technically be offered “on site” and instead will be offered at The Ridge lot as part of a centralized health center.

The property is located at 5 Timber Lane on the north side of Route 111 and is known as “The Boulders”. The property is depicted on the attached GIS Map. We also attach a GIS map of Tax Map 80, Lot 18, which is the lot containing the Ridge campus.

INTRODUCTION

RiverWoods currently consists of a multi campus community all under the same ownership and all under the same management, with the original campus, “The Woods” located on the south side of Route 111 and the other two campuses “The Boulders” and “The Ridge” located on the north side of Route 111. Each campus currently contains a health center. The nature of the RiverWoods community is that each of the campuses is unique, and yet the relations and operations among the three campuses are fluid. In common practice residents of any campus may receive their health services in a health center located on another campus. This core nature of the community is reflected in the evolution of planning for the future of RiverWoods and is no more evident than planning for the health care needs of the RiverWoods community. Beginning before, but accelerated by, the pandemic, RiverWoods became convinced that the efficiency and efficacy of delivering health care services would be substantially increased if a central health care facility, serving all three campuses, could be constructed on one campus and that the health centers on the remaining two campuses would be closed.

This planning exercise is now entering the next phase with a plan underway to propose a centralized health center at “The Ridge” lot. The plan is not yet complete and RiverWoods is engaged in a deliberate and thorough process to identify the precise location, recognizing that there is a need to balance the desires of the residents with the realities of a post-Covid world and the realities of design and site constraints and the need for approvals. Once the design process is completed, we will present the proposal to the Town of Exeter for full review by the Planning Board and, if needed, by the Zoning Board of Adjustment.

RiverWoods understands that the Zoning Board of Adjustment may have concerns about the subject variance being granted and going into effect prior to the centralized health center

¹ Note that RiverWoods does not use the term nursing home facility and instead uses the term health center. However, to avoid confusion with the terms of the zoning ordinance, RiverWoods will use the term nursing home facility within this variance application.

becoming approved by the Planning Board and the ZBA. RiverWoods agrees to an appropriate condition of approval since RiverWoods would not proceed with the project anyway until they can be assured that the centralized health center will become a reality.

Set forth below are the arguments which support why the variance criteria are met to for a health center for Boulders residents at The Ridge lot, despite the requirement of the “Elderly Care Congregate Facility” to provide for such services on site. Following your review of our submitted materials and our presentation at the public hearing, we respectfully request that the variance be granted as presented.

1. The variance will not be contrary to the public interest.

Granting the variance will not be contrary to the public interest. To be contrary to the public interest, the variance must unduly and to a marked degree violate the relevant ordinance’s basic zoning objectives. Determining whether the basic objective of the ordinance is violated can be measured by whether the variance will alter the essential character of the locality, or by whether it would threaten public health, safety or welfare.

The basic objective of the ordinance requiring that on site nursing home facilities be present on site is to have consistency with the notion that the campus is one of “congregate” care, and that a person entering RiverWoods in an independent living unit can remain there until their last days, including, if need be, a nursing home facility. Here, as explained above, RiverWoods has evolved over the years to include a somewhat symbiotic relationship between the campuses, such that residents of each campus have interaction with other campuses. As a result, having a nursing home facility at the Ridge lot will not unduly and to a marked degree violate the basic zoning objective because unlike having a nursing home facility in a completely different part of town, the new location will merely be in a different campus in the multi campus community.

The basic objective outlined above must also be viewed against the essential character of the locality to ascertain whether granting the variance will alter the essential character of the locality.

Currently, the locality surrounding the Boulders consists of the two other RiverWoods campuses, each of which has its own health center, and single family homes located adjacent to the RiverWoods property. As a result, eliminating the health center at the Boulders and moving it to The Ridge lot will not alter the essential character of the locality adjacent to the Boulders.

Locating the nursing home facility serving The Boulders residents at The Ridge lot will not threaten the public health, safety or welfare. First and foremost, the public health and welfare will not be threatened because The Boulders residents will continue to have the highest quality health services, and the intention is that centralized services located at The Ridge lot will even enhance those services. With regard to public safety, as stated earlier, fire and police needs, and external traffic generated by the new location of health services will be scrutinized during site review for The Ridge health center proposal. Further, any internal traffic impacts at The Boulders, such as the possible need for residents to visit a spouse at the centralized health center, are likely to be minimal and will be scrutinized as part of site review if required.

2. The spirit of the ordinance is observed.

Under New Hampshire law, this variance criteria is essentially merged with the “public interest” criteria. As stated above, the spirit of the ordinance is to ensure that nursing home facilities are offered to residents in a manner whereby they will remain physically part of the community. For the reasons stated above, the spirit of the ordinance will be observed if the variance is granted.

3. The values of the surrounding properties will not be diminished.

Granting the variance to allow for nursing home care for The Boulders residents to occur on The Ridge lot will not diminish the values of surrounding properties. All three campuses of the multi campus community have been in existence for some time, and the impact of health centers on the property values of surrounding properties is established. Moving the nursing home facility for The Boulders residents off of The Boulders campus to The Ridge lot will not impact the values of the properties surrounding The Boulders. No diminution in value will occur either in properties surrounding The Ridge lot since the use will remain the same.

RiverWoods is not aware of any information or evidence that would suggest that the location of the nursing home facility for The Boulders residents at The Ridge lot will diminish the values of surrounding properties.

4. Substantial justice is done.

The relevant analysis under this element of the variance criteria is whether the benefit to the applicant of granting this variance will be outweighed by a detriment or loss to the individual or to the public at large. Here, the benefit to RiverWoods is that having nursing home care outside of The Boulders lot, but on the adjacent Ridge lot, will be that the proposed centralized health center, the need for which is outlined in other portions of this application, will be one step closer to realization.

By contrast, there is no known harm to the public at large from moving The Boulders nursing home facility to The Ridge lot. Similarly, no known harm exists for individuals outside of The Boulders. With regard to the residents of The Boulders, the proposed relocation of the nursing home facility has been discussed with them and the reasoning for doing so is understood by the residents.

5. Unnecessary hardship.

A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

The property on which The Boulders health center sits was the third campus of what has evolved into a multi campus community, all providing elderly congregate care services. All campuses are located directly across from each other off of Route 111. The variance at issue is to allow a deviation from the definition of elderly congregate health care such that the nursing home facility for The Boulders will now be located on the adjacent lot at the Ridge. The New Hampshire

Supreme Court has recognized that aspects of a property which might in some circumstances be irrelevant for a hardship analysis, can become relevant based on the circumstances of the variance. Harborside Associates v. Parade Residence Hotel, LLC 162 NH 508 (2011). Here, The Boulders is part of a multi campus community, all offering elderly congregate care, and a centralized health center is contemplated to serve all campuses. Under these circumstances, the special condition of the property is that the nursing home care that would otherwise need to be provided at The Boulders can be provided in close proximity to The Boulders, but in a manner which will offer the highest quality service. To deny the variance for the sake of strict adherence to having a nursing home onsite will mean that the care objectives of efficient and effective health services for the multi campus community may be impaired.

B. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific provision to the property because:

The general public purpose of the ordinance is to ensure that the continuum of care which is one of the central tenets of “congregate care” is provided all in one place so as to foster a sense of community.

RiverWoods has over the years evolved into a multi campus community. Because the multiple campuses form a community, planning for the community occurs both with regard to the needs of the individual campuses and the needs of the community as a whole. Here, the needs of the community as a whole are to create a central health care center and in so doing, offer the highest level health care possible. On this issue, the needs of the individual campuses coincide with the needs of the community.

As a result, there is no fair and substantial relationship between the purpose of the ordinance and the strict application to the proposal at hand.

C. The proposed use is a reasonable one:

The applicant proposes to provide to The Boulders residents nursing home care as licensed by the State of New Hampshire. The only difference between what is offered now and what is proposed is that the location of the service will be at The Ridge lot, a very short distance from the current location. On balance, the proposed use is reasonable since it still meets the spirit of the ordinance by providing the service within the RiverWoods multi campus community, and yet it does so in what is hoped to be the most efficient manner possible.

**RIVERWOODS COMPANY AT EXETER
TAX MAP 98, LOT 37
5 TIMBER LANE
ABUTTER LIST**

OWNER/APPLICANT:

98/37 Riverwoods Company at Exeter
7 Riverwoods Drive
Exeter, NH 03833

ABUTTERS:

97/41 Southeast Land Trust
247 North River Road
Epping, NH 03042

98/12 Judith McDermott-Eggert
12 Pickpocket Road
Exeter, NH 03833

98/13 Robert & Karen Prior
16 Pickpocket Road
Exeter, NH 03833

98/14 Joanne Niedzielski, Trustee
Joanne Niedzielski Revocable Trust
PO Box 96
Exeter, NH 03833

98/39 Dennis & Cheryl Hayward, Trustees
9 Pickpocket Road
Exeter, NH 03833

98/35 & 80/18 (duplicate) Riverwoods Company at Exeter
7 Riverwoods Drive
Exeter, NH 03833

98/36 Paul & Sheila Roberge
15 Pickpocket Road
Exeter, NH 03833

79/21 John Bell
2 Split Rock Road
Exeter, NH 03833

79/20	Paul Holloway, Jr. 71 Wentworth Road Rye, NH 03870
79/19 & 79/18	Steven & Sarah Ramsay 2 Indian Trail Exeter, NH 03833
79/11	Anthony Pyro Katherine Walther 14 Runawit Road Exeter, NH 03833
79/10	Machaon & Kathryn Bonafede 131 Pickpocket Road Brentwood, NH 03833
80/17-9	David & Elisabeth Matson 17 Blackford Drive Exeter, NH 03833
75/17	Parkway Development Corp. 11 Lafayette Road North Hampton, NH 03862
ATTORNEY:	Sharon Cuddy Somers, Esq. Donahue, Tucker & Ciandella, PLLC 16 Acadia Lane Exeter, NH 03833
ENGINEER:	Altus Engineering 133 Court Street Portsmouth, NH 03801

LETTER OF AUTHORIZATION

I, Justine Vogel, Chief Executive Officer of The RiverWoods Company at Exeter, New Hampshire, owner of property depicted on Tax Map 98 as Lot 37, do hereby authorize Donahue, Tucker and Ciandella, PLLC, to execute any land use applications to the Town of Exeter and to take any action necessary for the application and permitting process, including but not limited to, attendance and presentation at public hearings, of the said property.

Dated: 9/30/2022, 2022

RIVERWOODS COMPANY AT EXETER


Justine Vogel, ~~Chief Executive Officer~~ CEO



- Parcels
- NH Highways
 - Interstate
 - US Highway
 - State Highway
- Town Boundary
- Abutting Towns
- Streets (Updated Feb 2015)
- Misc Streams
- Parcel Streams
- Open Water
- Buildings

Tax Map 98, Lot 37
"The Boulders"

RUNAWIT RD

BLACKFORD DR

PICKPOCKET RD

PICKPOCKET RD

JOELEY-RAND RD
OFF KINGSTON RD

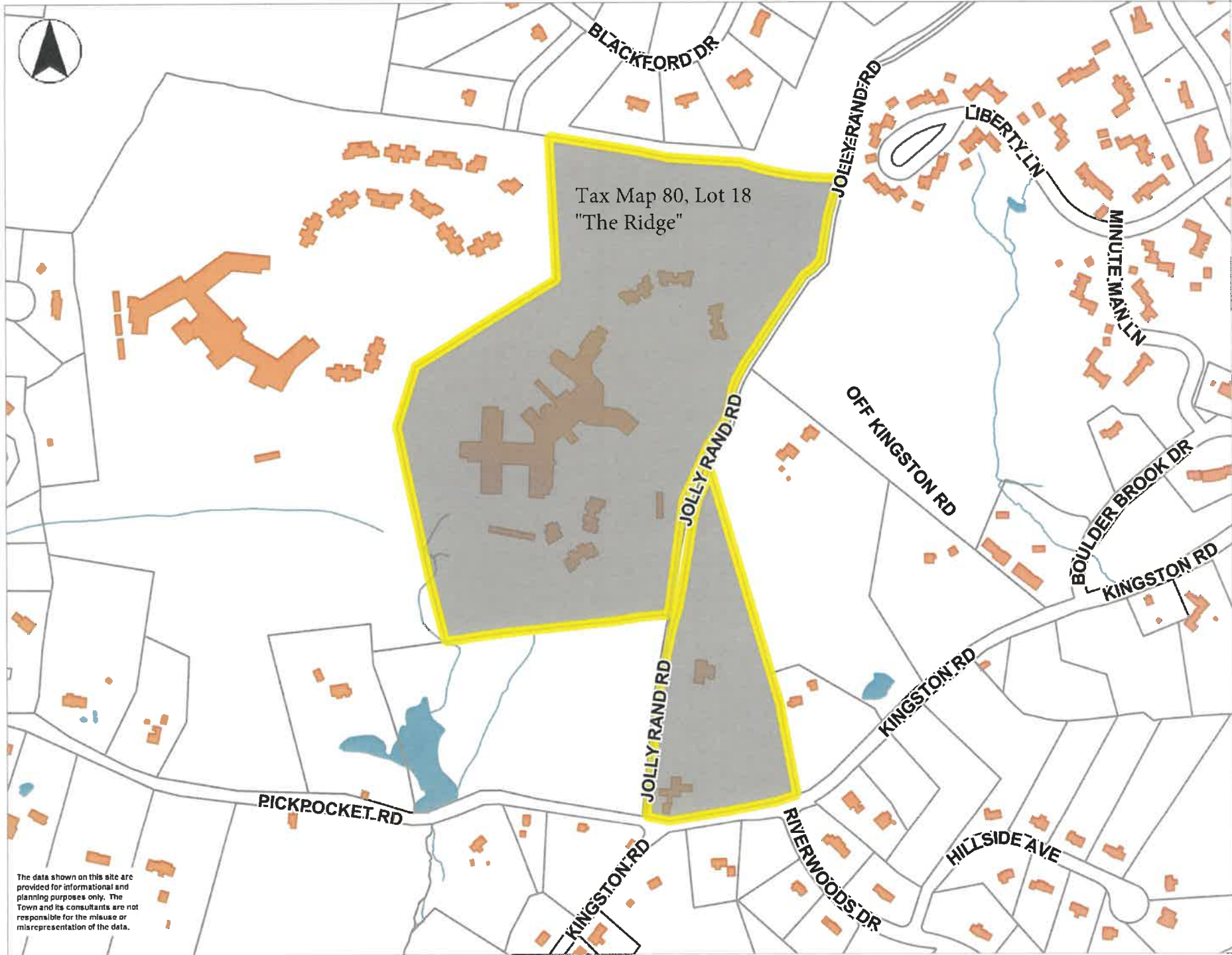
JOELEY-RAND RD
KINGSTON RD

The data shown on this site are provided for informational and planning purposes only. The Town and its consultants are not responsible for the misuse or misrepresentation of the data.

0 640 1280 ft

Printed on 09/26/2022 at 12:56 PM

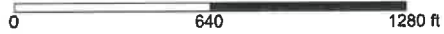
Exeter MapsOnline



Tax Map 80, Lot 18
"The Ridge"

- Parcels
- NH Highways
 - Interstate
 - US Highway
 - State Highway
- Town Boundary
- Abutting Towns
- Streets (Updated Feb 2019)
- Misc Streams
- Parcel Streams
- Open Water
- Buildings

The data shown on this site are provided for informational and planning purposes only. The Town and its consultants are not responsible for the misuse or misrepresentation of the data.



Printed on 09/26/2022 at 12:55 PM



CELEBRATING OVER 35 YEARS OF SERVICE TO OUR CLIENTS

LIZABETH M. MACDONALD
JOHN J. RATIGAN
DENISE A. POULOS
ROBERT M. DEROSIER
CHRISTOPHER L. BOLDT
SHARON CUDDY SOMERS
DOUGLAS M. MANSFIELD
KATHERINE B. MILLER
CHRISTOPHER T. HILSON
HEIDI J. BARRETT-KITCHEN
JUSTIN L. PASAY
ERIC A. MAHER
CHRISTOPHER D. HAWKINS
VASILIOS "VAS" MANTHOS
ELAINA L. HOEPPNER
WILLIAM K. WARREN

RETIRED
MICHAEL J. DONAHUE
CHARLES F. TUCKER
ROBERT D. CIANDELLA
NICHOLAS R. AESCHLIMAN

October 3, 2022

Kevin Baum, Chair
Exeter Zoning Board of Adjustment
10 Front Street
Exeter, NH 03833

Re: 107 Ponemah Road, LLC, Tax Map 82, Lot 11
Application for Special Exception

Dear Chair Baum and Board Members

Attached please find an application for the above referenced property to allow for Residential Conversion pursuant to Exeter Zoning Ordinance Article 4, Section 4.2 Schedule I to convert the existing single-family dwelling with attached barn to a three-family home together with supporting materials, abutter list and labels and check for filing fees. Under separate cover we will provide a plan showing the existing and proposed conditions of the property, generalized floor plans and details on the proposed landscaping and screening.

We respectfully request that this matter be scheduled at the October 18, 2022 meeting.

Very truly yours,
DONAHUE, TUCKER & CIANDELLA, PLLC

Sharon Cuddy Somers
SCS/sac
Enclosures

cc: 107 Ponemah Road, LLC
Henry Boyd

S:\01-99\107 Ponemah Road, LLC\Town of Exeter\ZBA Special Exception\2022 10 03 ZBA Letter.docx

DONAHUE, TUCKER & CIANDELLA, PLLC
16 Acadia Lane, P.O. Box 630, Exeter, NH 03833
111 Maplewood Avenue, Suite D, Portsmouth, NH 03801
Towle House, Unit 2, 164 NH Route 25, Meredith, NH 03253
83 Clinton Street, Concord, NH 03301

ZONING BOARD OF ADJUSTMENT APPLICATION CHECKLIST

For an application to be considered complete, you must have the following:

- Application Form.
- Complete Abutters List.
- Three (3) pre-printed 1" x 2 5/8" labels for each abutter, the applicant and all consultants.
- Letter of Explanation.
- Vicinity Ownership Map.
- Ten (10) copies of Entire Application. (10 plus original)
- Letter from Owner Authorizing Applicant to file on Owner's behalf.
- Filing Fees: *effective January 1, 2008*

\$100.00 Application Fee.

\$10.00 Per Abutter

Legal Notice Fee: Actual Cost of Advertisement.

Note: All of the above referenced items must be submitted to the Planning Office on or before deadline dates. See Schedule of Deadlines and Public Hearings for more information.

Town of Exeter
APPLICATION FOR

SPECIAL EXCEPTION

Case Number:	_____
Date Filed:	_____
Application Fee:	\$ _____
Abutter Fees:	\$ _____
Legal Notice Fee:	\$ _____
TOTAL FEES:	\$ _____
Date Paid	_____
Check #	_____

Name of Applicant 107 Ponemah Road, LLC
(If other than property owner, a letter of authorization will be required from property owner)

Address PO Box 234, Windham, NH 03087

Telephone Number (603) 501-9268

Property Owner 107 Ponemah Road, LLC

Location of Property 50 Linden Street, Exeter, Map 82, Lot 11

Applicant 107 Ponemah Road, LLC, By their Attorneys, Donahue, Tucker & Ciandella
Signature *Sharon Cuddy Somers*
Sharon Cuddy Somers, Esq.
Date 10/3/22

*NOTE: This application is not acceptable unless all required statements have been made.
Additional information may be supplied on a separate sheet if space is inadequate.*

APPLICATION FOR A SPECIAL EXCEPTION

1. Currently existing use and/or situation: _____

SEE ATTACHED

2. Proposed use and/or situation: _____

SEE ATTACHED

Note: Proposed change of use may result in applicable impact fees.

3. List all maps, plans and other accompanying material submitted with the application:

SEE ATTACHED

APPLICATION FOR SPECIAL EXCEPTION:

Special Exceptions:

A local zoning ordinance may provide that the zoning board of adjustment, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance. All special exceptions shall be made in harmony with the general purpose and intent of the zoning ordinance and shall be in accordance with the general or specific rules contained in the ordinance.

Special Exceptions, as enumerated in Article 4.2, Schedule I, shall be permitted only upon authorization by the board of adjustment. Such exceptions shall be found by the board of adjustment to comply with the following requirements and other applicable requirements as set forth in this ordinance.

NOTE: Please use a separate piece of paper if additional space is needed to complete the following information:

4. Explain the justification for special exception by addressing the following criteria:

A. That the use is a permitted special exception as set forth in Article 4.2, Schedule I hereof;

SEE ATTACHED

B. That the use is so designed, located and proposed to be operated that the public health, safety, welfare and convenience will be protected;

SEE ATTACHED

C. That the proposed use will be compatible with the zone district and adjoining post 1972 development where it is to be located;

Note: Adjoining principal uses in existence prior to 1972 (generally referred to as grand-fathered uses) that are not permitted uses as listed in 4.1 Schedule I: Permitted Use, shall not be considered in determining the compatibility of an applicant's proposed use.

SEE ATTACHED

D. That adequate landscaping and screening are provided as required herein;

SEE ATTACHED

E. That adequate off-street parking and loading is provided and ingress and egress is so designed as to cause minimum interference with traffic on abutting streets;

SEE ATTACHED

F. That the use conforms with all applicable regulations governing the district where located, except as may otherwise be determined for large-scale developments;

SEE ATTACHED

G. As a condition of Special Exception approval, the applicant may be required to obtain Town Planner review and/or Planning Board approval of the site plan. Additionally, the Board of Adjustment may require the applicant to obtain Planning Board approval of the site plan prior to rendering a decision on an application for Special Exception.

SEE ATTACHED

H. That the use shall not adversely affect abutting or nearby property values;

SEE ATTACHED

I. If the application is for a Special Exception for the bulk storage of a material which is, in the opinion of the Planning Board, potentially explosive, than landscaping, per Article 5.20, shall be deemed to include such blast containment, blast dampening or blast channeling features as the Board may require;

SEE ATTACHED

J. If the application is for a use in the “Professional/Tech Park District,” such exception will not:

- 1. Affect the water quality of Water Works Pond or other water supplies;**
- 2. Constitute a health hazard to the community;**
- 3. Permit temporary structures;**
- 4. Permit the recycling, disposal or transfer of materials defined as hazardous waste and set forth in Article 5.10.5 of this ordinance;**

Note: The applicant shall demonstrate that handling, storage and containment of any chemicals or substances defined as “hazardous” will be handled in strict accordance with the regulations and recommendations of the EPA and/or any other governmental body charged with enforcing compliance with any laws or statutes regulating hazardous substances.

**107 PONEMAH ROAD, LLC
TAX MAP 82, LOT 11
50 LINDEN STREET
ABUTTER LIST**

OWNER/APPLICANT:

82/11 107 Ponemah Road, LLC
131 Daniel Webster Highway #888
Nashua, NH 03060

ABUTTERS:

82/18 Exeter Cemetery Association
PO Box 29
Exeter, NH 03833

82/12 Albert & Laraine Bernier Living Trust
52 Linden Street
Exeter, NH 03833

82/13 Southern District YMCA
PO Box 729
Kingston, NH 03848

82/10 Theresa Page
Lucas Elsasser
46 Linden Street
Exeter, NH 03833

ATTORNEY: Sharon Cuddy Somers, Esq.
Donahue, Tucker & Ciandella, PLLC
16 Acadia Lane
Exeter, NH 03833

SURVEYOR: Henry Boyd
Millennium Engineering
13 Hampton Road
Exeter, NH 03833



CELEBRATING OVER 35 YEARS OF SERVICE TO OUR CLIENTS

Please Respond to the Exeter Office

LIZABETH M. MACDONALD
JOHN J. RATIGAN
DENISE A. POULOS
ROBERT M. DEROSIER
CHRISTOPHER L. BOLDT
SHARON CUDDY SOMERS
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RETIRED
MICHAEL J. DONAHUE
CHARLES F. TUCKER
ROBERT D. CIANDELLA
NICHOLAS R. AESCHLIMAN

October 3, 2022

Via Hand Delivery

Town of Exeter
Zoning Board of Adjustment
10 Front Street
Exeter, NH 03833

**Re: Special Exception Application for Residential Conversion
50 Linden Street, R-2 Zone, Tax Map 82, Lot 11
Narrative Explanation**

Dear Chair Baum and Members of the Zoning Board:

This Firm (the "Applicant") represents 107 Ponemah Road, LLC (the "Applicant" or "Owners"), which owns the property situated at 50 Linden Street in Exeter, also identified as Tax Map 82, Lot 11 (the "Property"). The Applicant seeks a Special Exception for a Residential Conversion pursuant to Exeter Zoning Ordinance Article IV, Section 4.2 Schedule I to convert the existing single-family dwelling with attached barn to a three-family home. This letter is intended as a narrative summary of the proposed use and a detailed explanation as to why the proposed use meets each of the applicable Special Exception criteria for a Residential Conversion.

We respectfully request that the Zoning Board place this matter on the agenda for the Board's October 18, 2022 meeting.

I. Property Description and Proposed Use

The Property is a 0.35 acre lot of record that is improved by a 1.5-story, single-family home with attached barn and is situated in the Town's R-2 Zoning District. The single-family home situated on the Property contains approximately 2,433 square feet of living area. The existing home has 4 bedrooms. The existing structure was built in 1840 and has been used as a residence for at least ten years.

The Applicant seeks a Special Exception for a Residential Conversion to convert the existing single-family use to a three-family use. As explained in more detail below, the proposed use complies with all of the Special Exception Criteria applicable to Residential Conversions.

DONAHUE, TUCKER & CIANDELLA, PLLC
16 Acadia Lane, P.O. Box 630, Exeter, NH 03833
111 Maplewood Avenue, Suite D, Portsmouth, NH 03801
Towle House, Unit 2, 164 NH Route 25, Meredith, NH 03253
83 Clinton Street, Concord, NH 03301

The Applicant submits that the applicable Special Exception criteria are met for the following reasons:

II. Article V, 5.2 Special Exception Criteria

A. The use is a permitted special exception as set forth in Article 4.2, Schedule I.

As noted above, the Property is situated in the R-2 District. Pursuant to Article IV, Section 4.2, Schedule I, Residential Conversions are permitted by Special Exception within the R-2 District, subject to compliance with additional Special Exception criteria set forth in the Schedule I Notes (discussed in detail below).

B. The use is designed, located, and proposed to be operated so as to protect the public health, safety, welfare, and convenience.

In submitting this Special Exception Application, the Applicant seeks to demolish the attached barn on the property and construct within substantially the same footprint a structure which will contain two dwelling units and the existing residence will remain as one dwelling unit. The Applicant does not propose any modifications to the exterior of the existing dwelling.

There is adequate space to accommodate two (2) dwelling units in a new structure in a building to be located where the barn currently sits, and which will have substantially the same footprint as the existing barn. The Property also uses municipal water, and the Applicant intends to extend the municipal sewer to the property in order to avoid the possible detrimental health and safety effects of on-site septic system to accommodate three dwelling units. Additionally, the Property presently has two driveways, each of which is long enough to park two cars. In addition, the Applicant proposes to create drive under garages within the new structure to accommodate the cars of the additional dwelling units.

Given that the Property's size and configuration are adequate to support the proposed use, the fact that the Property is served by municipal water and will be served by municipal sewer, and the fact that the Property has more than adequate off-street parking, the proposed use does not pose any threat to the public health, safety, welfare, or convenience.

C. The proposed use will be compatible with the zone district and adjoining post 1972 development where it is to be located.

The Applicant seeks a Residential Conversion to change the existing single-family use to that of a three-family use. The Property is zoned for residential use(s), including the current single-family use, as a matter of right, and the proposed three-family use, by Special Exception. The proposed use is also compatible with any adjoining post 1972 development in the form of single family homes and the Seacoast YMCA. The proposed use of the Property is thus in keeping with the R-2 District and will remain residential in character. Although there may be a slight intensification of use, the Property is well-situated to accommodate such intensification while remaining compatible with the R-2 Single-Family Residential District.

D. Adequate landscaping and screening are provided.

Addition details will be provided under separate cover.

E. Adequate off-street parking and loading are provided, and ingress and egress are designed so as to cause minimum interference with traffic on abutting streets.

Article V, Section 5.5.6, Off-Street Parking Schedule, requires 2 parking spaces for each multi-family unit of 2+ bedrooms. The existing residence has a total of four bedrooms, and therefore requires 2 parking spaces under Article V, Section 5.5.6. The proposed dwelling units in the barn will each have a total of 3-4 bedrooms, and therefore requires an additional 2 parking spaces each under Article V, Section 5.5.6. The proposed use thus requires a total of 6 off-street parking spaces. The Property presently has two driveways which can be used for parking for at least two cars and the Applicant proposes drive under garages in the barn as described above, providing adequate off-street parking for up to 4 cars. Accordingly, the Property presently has adequate off-street parking for the proposed use.

F. The use conforms with all applicable regulations governing the district where located.

The Property is a substandard, lawfully nonconforming lot of record inasmuch as it was created before the enactment of Zoning in Exeter and does not comport with the minimum lot width (90 feet exists where 100 feet is required) or the minimum side yard setback (4+/- feet is provided where 10 feet is required) although the Property does comport with all other dimension requirements for the R-2 District. Both the existing use and the proposed use otherwise comply with Article, IV, Section 4.2, Schedule I: Permitted Uses, Article V, Section 5.3, Existing Lot Regulations, Article V, Section 5.6, Off-Street Parking, and other applicable provisions of the Zoning Ordinance. The Property and use thus comport with all applicable regulations.

G. Town Planner review and Site Plan review.

The Applicant will seek Site Plan Approval from the Planning Board upon the granting of this request for Special Exception.

H. The use shall not adversely affect abutting or nearby property values.

The proposed use will not adversely affect abutting or nearby property values. As noted above, the Applicant intends to tie the lot into municipal sewer and a new structure will replace the existing barn; both actions will stabilize, or possibly enhance, the property values of the subject property. The residential use of the Property will remain the same and will not adversely affect the property values of nearby properties which include single family homes and the Seacoast YMCA. Any intensification of use occasioned by the proposed Residential Conversion will be minimal, given that the additional parked cars for the new units will be in a garage and the total

number of cars will have minimal impacts on the traffic on abutting streets. As a result of these minimally invasive changes, the proposed use will not affect the values of nearby properties.

I. The Application is not for the hazardous material that is potentially explosive.

The Applicant does not seek to store explosive materials on the Property, so Article V, Section 5.2.I is inapplicable to this Special Exception Application.

J. The Application is not for use on any of the following Tax Map Parcels: #70-101, #70-102, #70-103, #70-104, #69-2, #69-3 and/or #69-4.

The Property under review is Tax Map 82, Lot 11. As such, Article V, Section 5.2.J is inapplicable to this Special Exception Application.

III. Article IV, Section 4.2 Additional Special Exception Criteria for Conversions

A. The number of off-street parking spaces complies with Article 5.6 Off-Street Parking.

As detailed in Section II, E, above, Article V, Section 5.6 of the Zoning Ordinance requires a total of 6 off-street parking spaces for the proposed use. As proposed, the Property will have 6 off-street parking spaces and, accordingly, there is adequate off-street parking for the proposed use under Article V, Section 5.6.

B. The minimum lot size required shall be such that each dwelling unit is provided with thirty percent (30%) of the minimum lot size (per unit) required for the district.

Article IV, Section 4.2, Schedule I Note (b), applicable to Residential Conversions, provides that “[t]he minimum lot size required shall be such that each dwelling unit is provided with thirty percent (30%) of the minimum lot size (per unit) required for the district.” Article IV, Section 4.3, Schedule II, provides that the minimum lot size for single-family dwellings is 15,000 square feet per unit. Assuming that the lot size requirement referenced in Article IV, Section 4.2 Note (b) refers to the existing use rather than the proposed use, the minimum lot size for the proposed use is 4,500 square feet per unit ($30\% \times 15,000 \text{ square feet} = 4,500 \text{ square feet}$). Because the lot size of the Property is approximately 15,246 square feet the minimum lot size per dwelling unit is met.

C. The structure has been a residence for a minimum of ten (10) years.

The existing structure on the Property has been a single-family residence for at least 10 years. The structure was built in 1840 and has been used as a residence since that time.

D. The lot meets the open space requirements of Article IV, 4.3 Schedule II.

Article IV, Section 4.3, Schedule II Note 17 contains two categories for minimum open space in the R-2 district: lots using septic systems require a minimum of 60% open space, whereas lots using municipal sewer require a minimum of 40% open space. The Property will use municipal sewer and must therefore have a minimum of 40% open space. Given that the Property is approximately 15,246 square feet, this translates to a minimum of 6,099 square feet of open space.

The footprint of the existing single-family home and attached barn is approximately 3,425 square feet; additionally, there is approximately 200 square feet of paved driveway surface on the property. The total impervious surface of the Property, therefore, is approximately 3,625 square feet. The remaining 11,621 square feet of the Property is open space, thus exceeding the minimum of 6,099 square feet of open space. Accordingly, the lot meets the open space requirements of Article, IV, Section 4.3, Schedule II.

We intend to provide, under separate cover, a more refined analysis of the total impervious surface to be occupied which will include the proposed structures but since the footprint of the proposed structure will be substantially similar to that of the existing barn we are confident that we will meet the requirement of 6,099 square feet of open space.

E. For conversions intended to become rental units, one of the dwelling units shall remain owner-occupied.

The proposed Residential Conversion is intended to create three condominium units which will be sold therefore this requirement is not applicable.

F. Site Plan review.

The Applicant will seek Site Plan Approval from the Planning Board upon the granting of this request for Special Exception.

G. The Applicant does not request an expansion of the existing structure.

The Applicant does not propose an expansion of the existing structure, so it is unnecessary for the Zoning Board to consider same.

H. There are adequate septic facilities for both units.

The Applicant proposes to connect the property to the existing municipal sewer system and thus will have adequate septic facilities for all of the proposed dwelling units.

IV. Conclusion

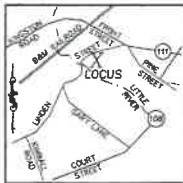
Based on the foregoing, the proposed use fully complies with all provisions of the Exeter Zoning Ordinance applicable to Special Exceptions for Residential Conversions, and the Applicant respectfully requests that the Board grant the requested Special Exception for Residential Conversion. Should the Board require additional information or have questions about any of the foregoing, please do not hesitate to contact me directly. Thank you for your time and consideration.

Very Truly Yours,
DONAHUE, TUCKER & CIANDELLA, PLLC



Sharon Cuddy Somers, Esq.
ssomers@dtclawyers.com

cc: 107 Ponemah Road, LLC



LOCUS MAP
NOT TO SCALE

- NOTES**
- 1) THIS PLAN DOES NOT SHOW ANY UNRECORDED OR UNWRITTEN EASEMENTS WHICH MAY EXIST. A REASONABLE AND DILIGENT ATTEMPT HAS BEEN MADE TO OBSERVE ANY APPARENT VISIBLE USES OF THE LAND; HOWEVER, THIS DOES NOT CONSTITUTE A GUARANTEE THAT NO SUCH EASEMENTS EXIST.
 - 2) THIS PARCEL DOES NOT LIE WITHIN A FLOOD ZONE. SEE FEMA COMMUNITY PANEL 3301SC 0402 C, EFFECTIVE DATE: MAY 17, 2008.
 - 3) ELEVATIONS SHOWN ARE BASED ON NAVD 83

ZONING DISTRICT
ZONE R2 SINGLE FAMILY

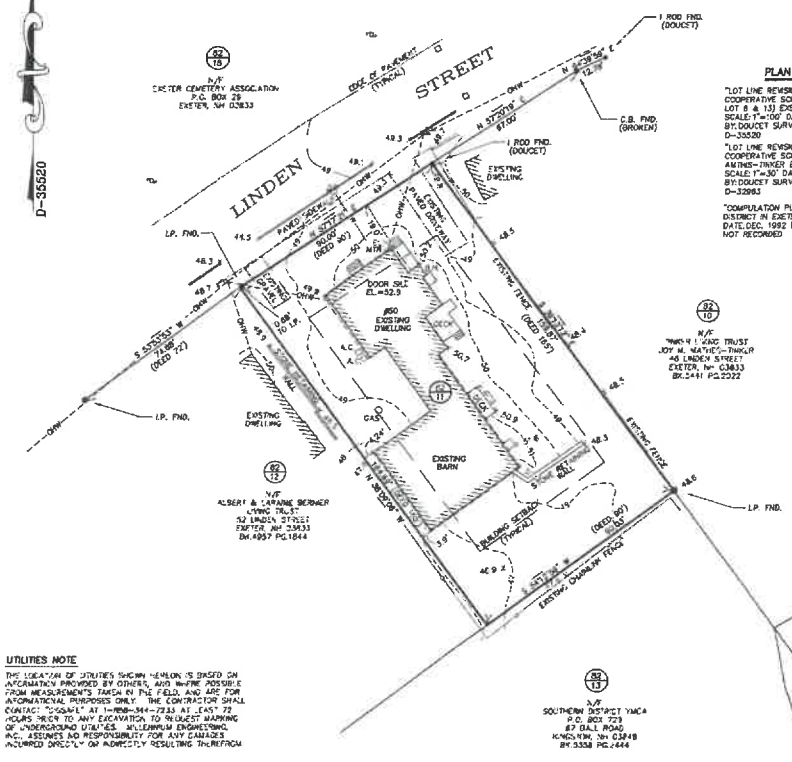
AREA 15,000 S.F.
LOT WIDTH 100'
LOT DEPTH 100'
BUILDING COVERAGE 25%
BUILDING SETBACKS
FRONT 25'
SIDE 15'
REAR 35'

RECORD OWNERS

107 PONEMAH ROAD LLC
131 DANIEL WEBSTER HIGHWAY #888
NASHUA, NH 03080
BR. 6308 PG. 5541

14,594 S.F.
0.34 ACRES

EXISTING IMPERVIOUS SURFACE 4,120 S.F.
EXISTING OPEN SPACE AREA 10,455 S.F.
IS 71.6% OF LOT AREA



- PLAN REFERENCES**
- *LOT LINE REVISION PLAN FOR EXETER REGION COOPERATIVE SCHOOL DISTRICT (TAX MAP 82, LOT 8 & 13) EXETER, NEW HAMPSHIRE SCALE: 1"=50' DATE: JULY 8, 2007 BY: DODGET SURVEY, INC. D-30350
 - *LOT LINE REVISION PLAN FOR EXETER REGION COOPERATIVE SCHOOL DISTRICT AND JOY M. ARTHUR-THAYER EXETER, NEW HAMPSHIRE SCALE: 1"=30' DATE: NOV. 28, 2002 BY: DODGET SURVEY, INC. D-32863
 - *COMPUTATION PLAN FOR EXETER SCHOOL DISTRICT IN EXETER NH SCALE: 1"=2000 DATE: DEC. 1992 BY: PARKER SURVEY ASSOC., INC. NOT RECORDED

UTILITIES NOTE

THE LOCATION OF UTILITIES SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY OWNERS, AND WHERE POSSIBLE FROM MEASUREMENTS TAKEN IN THE FIELD AND ARE FOR INFORMATIONAL PURPOSES ONLY. THE CONTRACTOR SHALL CONTACT "CONDUIT" AT 1-800-484-7243 AT LEAST 72 HOURS PRIOR TO ANY EXCAVATION TO REQUEST MAPPING OF UNDERGROUND UTILITIES. MILLENNIUM ENGINEERING, INC. ASSUMES NO RESPONSIBILITY FOR ANY DAMAGES INCURRED DIRECTLY OR INDIRECTLY RESULTING THEREFROM.

- LEGEND**
- C.B. CONCRETE BOUND
 - I.P. IRON PIPE
 - I.R.O.D. IRON ROD
 - FND. FOUND
 - (0/00) ASSESSORS MAP AND PARCEL
 - O.H.W. OVER HEAD WIRE
 - U.P. UTILITY POLE
 - W.S.O. WATER SHUT OFF
 - W.S. WATER SERVICE
 - S. SEWER SERVICE
 - LOCATION UNCERTAIN

I CERTIFY THAT THIS ACTUAL SURVEY WAS MADE ON THE GROUND IN JUNE OF 2022. THAT THIS SURVEY CONFORMS TO THE REQUIREMENTS FOR ACCURACY FOR A L.S. SURVEY.

[Signature]
DATE: 07-05-2022
LICENSED LAND SURVEYOR



PLAT OF LAND
IN
EXETER, NH

SHOWING
EXISTING SITE CONDITIONS
AT 50 LINDEN STREET
(ASSESSORS MAP 82 LOT 11)

RECORD OWNERS
107 PONEMAH ROAD LLC
131 DANIEL WEBSTER HIGHWAY #888 NASHUA, NH 03080

MILLENNIUM ENGINEERING INC.
ENGINEERS AND LAND SURVEYORS
P.O. BOX 745 13 HAMPTON ROAD EXETER, NH 03833
PHONE: (603) 778-0528 FAX: (603) 772-0889 WWW.ME-161.COM

1	0-29-22	ADD OPEN SPACE CALC.	N.H.B.	SCALE: 1"=20'	DRWN. BY: N.H.B.	PROJECT: E222955
NO.	DATE	DESCRIPTION	BY	DATE: JULY 07, 2022	CHKD. BY: R.S.G.	

LETTER OF AUTHORIZATION

I, Gal Peretz, duly authorized representative of 107 Ponemah Road, LLC, owner of property depicted on Tax Map 82, Lot 11, do hereby authorize Donahue, Tucker and Ciandella, PLLC, to execute any land use applications to the Town of Exeter and to take any action necessary for the application and permitting process, including but not limited to, attendance and presentation at public hearings, of the said property.

Dated: 09-30-2022

107 PONEMAH ROAD, LLC

Gal Peretz
Gal Peretz, duly authorized

Town of Exeter
Zoning Board of Adjustment
September 20, 2022, 7 PM
Town Offices Nowak Room
Draft Minutes

1
2
3
4
5
6
7 **I. Preliminaries**

8 **Members Present:** Chair Kevin Baum, Vice-Chair Robert Prior, Clerk Esther Olson-
9 Murphy, Rick Thielbar, Martha Pennell - Alternate

10
11 **Members Absent:** Laura Davies, Christopher Merrill - Alternate, Joanne Petito -
12 Alternate

13
14 **Call to Order:** Chair Baum called the meeting to order at 7 PM.

15
16 **I. New Business**

- 17 A. The application of 131 Portsmouth Avenue LLC for a variance from Article 5,
18 Section 5.1.2 to permit the expansion of a non-conforming light industry use on
19 the property located at 131 Portsmouth Avenue. The subject parcel is located in
20 the C-2, Highway Commercial and CT-Corporate/Technology Park zoning
21 districts. Tax Map Parcel #52-112. ZBA Case #22-12.

22
23 Attorney Justin Pasay of DTC Lawyers was present to discuss the application.
24 This proposal would clean up the zoning demarcation between C2 and CT. Holland Way
25 is in the CT district, and a portion of Portsmouth Ave is in the C2 District. Osram
26 Sylvania was a large 32 acre site with a zoning line that split the property down the
27 middle. Since it was split, there have been subdivisions which make the zoning line
28 arbitrary. There are two buildings on the property: a larger building of 135,000 square
29 feet, and a smaller building of 74,000 square feet. At the 2019 Town Meeting, voters
30 decided to change the PP District along Holland Way to the Corporate/Technology Park
31 (CT) District, in order to attract light industrial applications. In 2020, the first subdivision
32 of the Osram site occurred. This created two lots, one of 16.5 acres and the big building,
33 and a second lot of 15 acres with the smaller building. Subsequently, 131 Portsmouth
34 Ave LLC bought the 15-acre site with the smaller building. Last month a further
35 subdivision was approved: the applicants intend to sell a 9 acre lot to CA Design, a
36 company which produces products for the fence industry, a light industrial use. CA would
37 put an addition to the 74,000 square foot building to create a 114,000 square foot
38 building. This building is split by the zoning district; most of it in CT, but the proposed
39 addition is in C2, where light industrial use is not allowed. That's why they need a
40 variance.

41 Mr. Prior asked about access from Holland Way rather than access from
42 Portsmouth Ave for the new subdivision. Mr. Pasay said it will be up to CA Design to go
43 before the Planning Board and discuss those types of issues. A DOT permit has been
44 obtained for access onto Holland Way.

45 Mr. Prior asked if any further requests would come forward, such as parking or
46 access. Attorney Pasay said this plan doesn't require any additional relief.

47 Attorney Pasay went through the variance criteria. 1) The variance will not be
48 contrary to the public interest and 2) The spirit of the ordinance will be observed; yes,
49 there is no conflict with the purpose of the zoning ordinance. The proposal advances the
50 purpose of the governing body and of the Master Plan. Town meeting in 2019 rezoned
51 the CT District to attract more light industrial development. This use is compatible with
52 the existing surrounding uses, such as Osram. More jobs, more prosperity, and more tax
53 revenue are in the public interest. There's no threat that this proposal will alter the
54 essential character of the neighborhood. The proposal is consistent with intent of the
55 zoning ordinance. 3) Substantial justice is done; yes, there's no identifiable public gain
56 from the denial. If the variance is denied, the intent of the 2019 zoning ordinance change
57 and the Master Plan will be frustrated. 4) The value of surrounding properties will not be
58 diminished; yes, we don't foresee any detriment. If anything, this expansion will increase
59 the value of this property, which will increase the value of surrounding properties. 5)
60 Literal enforcement of zoning ordinance will result in an undue hardship; yes, the special
61 circumstances are that the property and the building itself are bifurcated by the zoning
62 line. The purpose of the zoning ordinance, which is to advance the public interest,
63 facilitate reasonable development, and limit incompatible development, would not be
64 observed by applying it to this property. Granting the variance actually advances the
65 public interest and accomplishes reasonable and compatible development. The
66 proposed use is reasonable by virtue of the uses on the property for years and town
67 meeting's intent to facilitate this type of use on this property.

68 Mr. Thielbar said he's not clear on what the variance should say. Is the applicant
69 asking for all of the green area on the map to be zoned CT, or just to make sure they
70 can build a building? Attorney Pasay said the variance is to permit the expansion of a
71 non-conforming use with the 40,000 square foot addition to the existing building. It's not
72 requested to re-zone the property. Mr. Baum said it's to permit the expansion as
73 proposed, nothing additional. Attorney Pasay said the proposal was designed to
74 encompass what CA Design plans to do with the building.

75 Mr. Prior asked if 131 Portsmouth Avenue is the address only for the green
76 portion of the map. Attorney Pasay said that was the address for the pre-subdivision
77 parcel, and he doesn't know of any reassigning of address. Doug Eastman said that lot
78 has not been numbered yet. Both parcels are currently considered 131 Portsmouth. Mr.
79 Prior said we can refer to it as 131 Portsmouth Ave lot A.

80 Mr. Baum read a memo from the Economic Development Director in support of
81 the application, which he said could bring up to 200 jobs to the town.

82 Mr. Baum opened the discussion to the public, but there was no comment. Mr.
83 Baum brought the discussion back to the Board.

84 Mr. Prior said he believed that the general consensus of the Board was that the
85 proposal meets the variance criteria. Ms. Pennell said her only possible concern would
86 be a potential future exit to Holland Way, but that doesn't have anything to do with this
87 application.

88

89 Mr. Prior made a motion to approve the application of 131 Portsmouth Avenue LLC for a
90 variance from Article 5, Section 5.1.2 to permit the expansion of a non-conforming light
91 industrial use on the property located at 131 Portsmouth Avenue, aka Map 51 Lot 112A, as
92 proposed. Mr. Thielbar seconded. Mr. Baum, Mr. Thielbar, Ms. Olson-Murphy, Ms. Pennell, and
93 Mr. Prior voted aye. The motion passed 5-0.

- 94
95 B. A request for rehearing the August 16 Zoning Board decision for 81 High Street,
96 the Phillips Exeter application, to permit the property be used for multi-family
97 without the over-55 restriction.

98 Mr. Baum said the rehearing would only take place if there were an error
99 made or if there were facts not known at the time of the decision. This is purely
100 deliberative and not open for public discussion. He was not present for the
101 meeting but reviewed the minutes and is prepared to vote.

102 Mr. Thielbar said when the original variance was issued, there was a
103 historic building that was falling down. Through a lot of discussion, we decided
104 that by having an age-restricted use, we would have very little impact on the
105 surrounding territory and would permit the upgrade of the structure. That facility
106 has been run successfully for a number of years. The hardship no longer exists.
107 The essence of the applicant's argument was that since the variance allowed
108 multi-family housing, any condition on that use is not enforceable, but he [Mr.
109 Thielbar] doesn't think that's true. The current owner having to raise the prices in
110 order to run the facility may be a hardship for the residents, but not a hardship for
111 the property.

112 Ms. Olson-Murphy said they didn't give us anything new to work with,
113 they're just restating the argument. Mr. Baum said it says that the Board found
114 that hardship existed in 2011, so it still exists, but he doesn't agree. When the
115 Board made its decision in 2011, the over-55 restriction was part of it.

116 Ms. Pennell said she read the minutes and got the impression that the
117 house back then couldn't sell, because there was no market for such a large
118 single-family house. This seemed like the only way to go. Ms. Olson-Murphy said
119 a 12,000 square foot building is never going to be a family home. Ms. Pennell
120 said she's not sure that still true. If you put it on the market now, it may sell.

121 Mr. Prior said he was not present, but he's read the minutes and is ready
122 to make a vote.

123 Ms. Pennell asked if part of the applicant's argument was that we should
124 not be considering the variance, but consider the property without the variance?
125 Ms. Olson-Murphy said even if we did, we would come to the same decision,
126 because it's not a dilapidated building that needs work. It's a nice building now
127 that could be sold as a 14 unit building. Ms. Pennell said he could probably sell it
128 as a single-family. Mr. Prior said that's immaterial.

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130 Mr. Thielbar made a motion to deny the request to reconsider. Mr. Prior seconded. Mr. Baum,
131 Mr. Thielbar, Ms. Olson-Murphy, Ms. Pennell, and Mr. Prior voted aye. The motion passed 5-0.

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II. Other Business

A. Minutes of August 16, 2022

Corrections: Mr. Baum said there were some references to “Attorney Wilson,” but was that Attorney Roy Tilsley or Steve Wilson, the property owner? The Board reviewed the minutes and decided that each reference should read “Attorney Tilsley.”

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Ms. Olson-Murphy made a motion to accept the minutes with updating the mentions of “Attorney Wilson” in lines 177, 185, and 191 to be “Attorney Tilsley.” Mr. Thielbar seconded. Mr. Thielbar, Ms. Olson-Murphy, and Ms. Pennell voted aye. Mr. Baum and Mr. Prior abstained because they were not present at the August 16 meeting. The motion passed 3-0-2.

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B. Mr. Prior and Ms. Pennell said they must recuse themselves from the Riverwoods application to be considered at the next meeting.

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III. Adjournment

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Mr. Prior moved to adjourn. Mr. Baum seconded. Mr. Baum, Mr. Thielbar, Ms. Olson-Murphy, Ms. Pennell, and Mr. Prior voted aye. The motion passed 5-0 and the meeting was adjourned at 7:50 PM.

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Respectfully Submitted,
Joanna Bartell
Recording Secretary